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FROM THE

GENERAL LAND OFFICE,

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SHOWING

THE MANNER OF PROCEEDING

TO

OBTAIN TITLE TO PUBLIC LANDS UNDER THE PRE-EMPTION, HOMESTEAD, AND OTHER LAWS.

ISSUED JANUARY 1, 1889.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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CIRCULAR

IN REFERENCE TO

THE MANNER OF ACQUIRING TITLE TO THE PUBLIC LANDS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 1, 1889.

The public lands of the United States are included within the States of Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Wisconsin, the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming, and the district of Alaska. In Ohio, Indiana, and Illinois a very few isolated tracts of public land remain.

In these States and Territories, with the exception of the three last-mentioned, there are land districts with defined boundaries, in each of which a land office is established by law, where a register and a receiver are in attendance, for the sale or other disposal of the public lands embraced therein. For appointments, term, compensation, and general duties of these registers and receivers, see sections 2234 to 2247 of the Revised Statutes of the United States. (Appendix No. 1.)

A land office, with *ex officio* register and receiver, is also established for the district of Alaska, under the act of Congress of May 17, 1884 (Appendix No. 25), which provides for the disposal of the minerals therein, but the general land laws have not been extended to Alaska, and the agricultural lands in that district are not subject to survey or disposal.

Any proper information regarding vacant public lands may be obtained by application at any of these land offices, a list of which will be found on another page.

ACQUISITION OF TITLE.

Title to public lands may be acquired by purchase at public sale or by ordinary private entry, and by virtue of the pre-emption, homestead, timber-culture, and other laws.

PURCHASE AT PUBLIC SALE.

Lands may be purchased at public auction by the highest bidder when offered pursuant to proclamation of the President, or under public notice in accordance with directions from the General Land Office. (Rev. Stat., 2353, 2357, 2358, 2359, 2360, 2455; Appendix No. 1.)

PRIVATE ENTRY OR LOCATION.

Lands which, having been offered at public sale, remain unsold, if not afterward reserved or withdrawn from market, are liable to private entry or location. (Rev. Stat., 2354, 2357; Appendix No. 1.)

MINIMUM AND DOUBLE-MINIMUM LANDS.

No land shall be sold, either at public or private sale, at less than $1.25 per acre, which is therefore called the "minimum price;" and lands held for sale at that price are called "minimum lands." (Rev. Stat., 2357; Appendix, No. 1.)

Double minimum lands are those of which the price is fixed by law at $2.50 per acre; and that price is called the double minimum price.

Alternate reserved sections within the limits of railroad grants are double minimum in price (Rev. Stat., 2357), except such as were put in market at the enhanced price prior to January 1, 1861, and were subject to entry June 15, 1880, all of which were reduced in price to $1.25 per acre by the third section of the act of Congress of June 15, 1880 (21 Stat., 237; Appendix No. 15), or where a different price is provided for in statutes for the disposal of lands under special conditions. Lands reduced in price under act of June 15, 1880, are not, however, subject to private entry at the reduced price until again offered at public sale. (Eldred *v.* Sexton, 19 Wall., 189.)

MODE OF PROCEEDING IN MAKING CASH PURCHASES.

A person desiring to purchase a portion of the public land for cash must present a written application to the register for the district in which the land described is situated, describing the tract and giving its area (see Form 4–001). If the tract is vacant and subject to the entry applied for, the register will so certify to the receiver, stating the price, and the applicant must pay to the latter the amount of the purchase-money. Thereupon the receiver will issue his receipt in duplicate to the purchaser for the money paid (Form 4–131). The register will then issue his certificate of purchase (Form 4–189).

At the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent will be issued.

CASH PURCHASE BY TIMBER TRESPASSERS.

In addition to the foregoing in reference to purchase at public offering and purchase or location at ordinary private entry, it is to be noted that the first section of the act of Congress of June 15, 1880 (21 Stat., 237; Appendix No. 15), having reference to cases of timber trespasses upon the public lands committed prior to March 1, 1879, has been held to extend to such trespassers the privilege of paying for the land upon which the offenses were so committed at the price per acre for which, under the law in force at date of payment, the lands could be sold. This privilege of purchase was held not to be confined to lands subject to private entry, but to extend to any lands, not mineral, subject to disposal under general existing laws.

The provisions referred to apply only to tracts trespassed upon prior to March 1, 1879, and it is thought that few, if any, tracts remain undisposed of to which they would be applicable.

This section can not be construed to permit a party who falls within the class of offenders named to enter the land if the valid claim of another person shall have attached prior to his application to purchase and be still subsisting.

Where lands are plainly subject to ordinary private entry, no special application to purchase, other than the usual application in cases of private entry, is required in order to enable the purchaser to avail himself of the benefits of this act. When lands are not plainly subject to ordinary private entry, and application to purchase the same shall be made with a view to securing the immunity contemplated by said first section, the district officers will require the application to be presented under oath of the applicant, giving a full and detailed statement of all the facts upon which he bases his claim to purchase. Such sworn statement must be corroborated by the affidavits of credible witnesses, and the officers will thereupon forward all the papers in a special letter to this office, and await instructions before admitting an entry. Entries allowed will be included in the regular cash returns and accounts, the papers being issued as usual in cash entries, on which will be made a note referring to the statute and to the Commissioner's letter authorizing the same.

But it is now held that the fact of trespass does not, under said act, give the trespasser the right to purchase lands otherwise excluded from sale. (Woodstock Iron Company, 6 L. D., 738.)

LIMITATIONS ON PURCHASES BY ALIENS AND CORPORATIONS.

The act of March 3, 1887, "to restrict the ownership of real estate in the Territories to American citizens and so forth," (Appendix No. 24), prohibits acquisition, holding, or owning of real estate in any of the Territories or the District of Columbia (except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts theretofore created) by any person not a citizen of the United States, or who has not lawfully declared his intention to become such, or by any corporation not created under the laws of the United States or some State or Territory thereof; except where some existing treaty secures such right to the citizens or subjects of foreign countries, and then only during the continuance of such treaty.

No corporation or association in which more than 20 per cent. of the stock is owned by a person, corporation, or association not a citizen of the United States can acquire, hold, or own any real estate acquired in any of the Territories or the District of Columbia after the 3d day of March, 1887.

No corporation except those organized for the construction or operation of railways, canals, or turnpikes can acquire, hold, or own more than 5,000 acres of land in any Territory; and no railroad, canal, or turnpike corporation can acquire, hold, or own lands in any Territory, other than necessary for the proper operation of its railway, canal, or turnpike, except such as may have been granted by act of Congress.

WARRANT LOCATIONS.

Military bounty-land warrants may be located upon any vacant public lands of the United States that are subject to sale at *private entry*, and they may be used in payment of pre-emption claims, or in commutation of homestead entries, even when the same embrace *unoffered lands.*

A warrant issued to several parties, or assigned to three or more persons (Rev. Stat.; sec. 2414, Appendix No. 1), can not be located if assigned by one of the owners to another, or to other persons, so as to invest any one of the parties with a greater interest than any other. In other words, each owner of a warrant, at the time of its location, must have an *equal* share or interest therein.

A warrant may be located either at a district land office or through the agency of this office (Rev. Stat., sec. 2437; Appendix No. 1). If located at a district office, it must be accompanied by a tender of the fees to which the register and receiver are entitled, and by a written application to locate, containing a description of the tracts desired, and signed by the locator or his attorney in fact. If by the latter, his authority to act must be evidenced by a power of attorney, which must be prepared in accordance with the prescribed form and indorsed, if practicable, upon the warrant.

If the location is made through *this office*, the warrant must be sent to the Commissioner with a request that the same be located in a specified land district, and accompanied by a receipt from the register and receiver for the fees to which they may be severally entitled under section 2238, Revised Statutes.

Each warrant is required to be distinctly and separately located upon a *compact* body of land; and if the area of the tract claimed should exceed the number of acres called for in the warrant, the locator must pay for the excess in cash; but if it should fall short, he must take the tract in full satisfaction for his warrant. A person can not enter *a body of land* with a number of warrants without specifying the particular tract or tracts to which each shall be applied; and for each warrant there must be a distinct location certificate and patent (sec. 2415, Rev. Stat.; Appendix No. 1).

Where the desired tract is subject to entry at a greater minimum than $1.25 per acre, the locator, in addition to the surrendered warrant, must pay in cash the difference between the value of such warrant at $1.25 per acre and that of the said land, or present a warrant of such denomination as will, at its legal value of $1.25 per acre, cover the rated price of the tract, and pay the excess in value of the land, if any, in cash. For example: A tract of 40 acres of land held at $2.50 per acre may be entered by the location of a warrant calling for 40 acres and the payment of $50 in cash; or by locating thereon a warrant for 80 acres, the 40 acres embraced in the entry being received in full satisfaction of the same; or a tract containing 80 acres rated at $2.50 per acre may be entered by the location of *two* 80-acre warrants, or of *one* for 160 acres, and so on. It will be required, however, in the entry of a tract held at a greater minimum than $1.25 per acre, by the location of *two or more* warrants, that *each warrant* shall be located upon a *specific legal subdivision thereof*, which legal subdivision shall be received in full satisfaction of the warrant surrendered therefor; and that the excess in value of the lands, if any there be, shall in each case be paid in cash. Hence, a tract containing 40 acres or less of double minimum lands can not be entered by the location of *two 40-acre warrants.*

A pre-emptor of lands held at $1.25 per acre may enter the tract embraced in his claim by the location of one, two, or more warrants; but each warrant must be applied to a specific subdivision thereof; that is, a warrant for 40 acres must be located upon a described subdivision containing as nearly as possible 40 acres of land; a warrant for 80 acres upon a tract embracing 80 acres, and so on. Where the preemption claim is composed of lands subject to entry at a greater mini-

mum than $1.25 per acre, the rules set forth in the preceding section will apply. (Sec. 2277, Rev. Stat.; Appendix No. 1.)

When a subdivision is fractional, a warrant approximating nearest the number of acres embraced therein may be located thereon, but the fractional excess in area must be paid for with cash, and will be conveyed in the same patent with the lands covered by the location of the warrant; a *legal subdivision*, however, other than those entered by the location of the warrant, will not be regarded as a legitimate fractional excess over such location, but will be required to constitute a *separate entry*. Thus, a person will not be permitted to make *one entry* of a quarter section of land by the location of a warrant for 120 acres and a cash payment for the remaining subdivision.

Registers and receivers of the local land offices are entitled to the following fees for their services in locating warrants, and the several amounts mentioned must be paid *at the time of location:*

For a 40-acre warrant,	$0.50	each to the register and receiver;			total,	$1.00.
For a 60-acre warrant,	.75	do.	do.	do.	do.	1.50.
For an 80-acre warrant,	1.00	do.	do.	do.	do.	2.00.
For a 120-acre warrant,	1.50	do.	do.	do.	do.	3.00.
For a 160-acre warrant,	2.00	do.	do.	do.	do.	4.00.

(Bounty warrants were not issued to soldiers and sailors for military services in the late civil war. The only privileges granted them in connection with the public lands will be found set forth hereafter, under the head "Homestead." The bounties for military services in the last war were not given in *land*, but in *money*.)

AGRICULTURAL COLLEGE SCRIP LOCATIONS.

Agricultural college scrip issued under act of July 2, 1862 (12 Stat., 503), and March 3, 1883 (22 Stat., 484), may be used—

First. In the location of land at "*private entry;*" but when so used is applicable only to lands *not mineral* which may be subject to *private entry*, at $1.25 per acre, and is restricted to a technical "*quarter-section*,"—that is, land embraced by the quarter-section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter section," where such part is taken as in full for a quarter; but it can not be applied to different subdivisions to make an area equivalent to a quarter-section. (Sec. 2, act July 2, 1862, 12 Stats., 503.) The manner of proceeding to acquire title with this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three* sections in *each township* of land, and 1,000,000 *acres* in *any one State*. (15 Stats., 227.)

Second. In payment of pre-emption claims and in commutation of homestead entries (Sec. 2278, Rev. Stat., Appendix No. 1). When so used it can be located on minimum or double minimum lands, and there is no limitation of the quantity that may be located in a township or State. When located in payment of pre-emption claims and in commutation of homestead entries on double minimum lands, the excess price must be paid or a double quantity of the scrip surrendered (Secs. 2277, 2278, Rev. Stat., Appendix No. 1).

When the land located is rated at $1.25 per acre, and the area does not exceed the area specified in the scrip, it must be taken in full satisfaction thereof. (Secs. 2277, 2278, Rev. Stat., Appendix No. 1.)

PRIVATE LAND SCRIP LOCATIONS.

Scrip issued in satisfaction of private land claims under decrees of the United States Supreme Court, pursuant to acts of Congress of June 22, 1860 (12 Stat., 85), March 2, 1867 (14 Stat., 544), and June 10 1872 (17 Stat., 378), and scrip issued under the act of June 2, 1858 (11 Stat., 294), may be located on lands subject to sale at private entry, or in payment of pre-emption claims and in commutation of homestead claims, in the same manner as military bounty land warrants.

PRE-EMPTIONS.

Pre-emption is the exercise of a right by a person possessing the qualifications required by statute who has made settlement in person on public land subject to pre-emption not exceeding 160 acres, inhabited and improved it, and erected a dwelling thereon, to obtain title in preference to any other, by entry and purchase at the price at which the land is held.

CLASS OF LANDS SUBJECT TO PRE-EMPTION.

Public lands of the United States to which the Indian title has been extinguished, and which are not included in any reservation by any treaty, law, or proclamation of the President, for any purpose, which are not included within the limits of any incorporated town, or selected as the site of a city or town; which are not actually settled upon nor occupied for purposes of trade and business and not agriculture, and on which there are not situated any known mines or salines, are subject to pre-emption. (Sec. 2258, Rev. Stat., Appendix No. 1.)

QUALIFICATIONS OF PRE-EMPTORS.

A pre-emptor must be the head of a family or single person over the age of twenty-one years and a citizen of the United States, or one who has declared his intention to become a citizen, as provided by the naturalization laws.

No person can acquire any right of pre-emption who is the proprietor of 320 acres of land in any State or Territory, nor who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

PROCEEDINGS TO ACQUIRE TITLE TO LAND BY PRE-EMPTION.

A party desiring to pre-empt a tract of land should carefully and in person examine the land, be certain of its true description according to the public surveys, and satisfy himself as to its character and desirability for purposes of residence and cultivation, and that there is no other valid claim to it. He is bound to personally know the land he claims, and any mistakes that might have been avoided with proper diligence are at his own risk.

Having selected the land he proposes to claim, he should move upon it and make an actual settlement thereon in person. He must go in person upon the land and perform substantial acts as a bona fide actual settler thereon before he can acquire any right as a pre-emptor.

When he has done this he may file his declaratory statement in the district land office. This may be done in person or through the mails,

but he can not file a declaratory statement before he has actually settled upon the land. Illegal filings resulting from the willful fault or gross negligence of the pre-emptor exhaust the pre-emption right.

A filing without actual settlement is illegal, and no rights are acquired thereby, although a subsequent bona fide settlement may be recognized, if made before the intervention of a valid adverse claim, and duly followed up by the proper inhabitancy and improvement.

If the land is "offered," his declaratory statement must be filed within thirty days after he becomes a settler on the land. (Form No. 4—534.)

If the land is surveyed and "unoffered," he has three months after becoming a settler on the land within which to make his filing. (Form No. 4—535.)

Settlers on unsurveyed land have three months after the plat of township survey is filed in the district land office within which to put their claims on record.

Failure to file a declaratory statement within the time prescribed makes the land liable to the claim of an adverse settler who does file notice of his intention at the proper time, and otherwise complies with the conditions of the law. (Sec. 2265, Rev. Stats., Appendix No. 1.)

The declaratory statement must describe the land settled upon, state the date of settlement, and declare the intention of the party to claim the same under the pre-emption laws. The declaratory statement must be in writing or printed according to the prescribed form, and be witnessed by not less than two persons who live in the neighborhood of the land. The place of residence of claimant's witnesses and the post-office address of claimant must be stated in the declaration.

The existence of a pre-emption filing on a tract of land does not prevent another filing for the same land, subject to any valid rights acquired by virtue of any former settlement and filing.

The land office fee for filing a declaratory statement is $2, except in the Pacific States and Territories, where the fee is $3.

SECOND PRE-EMPTION FILINGS.

The second filing of a declaratory statement by any pre-emptor who was qualified at the date of his first filing is illegal. (Sec. 2261, Rev. Stats., Appendix No. 1; Baldwin *v.* Stark, 107 U. S., 463; also Secretary's decision of February 27, 1884, case of Raymond, 10 Copp, 395.) Where the first filing, however, was illegal from any cause not the willful act of the party, he has the right to make a second and legal filing. (Goist *vs.* Bottum, 5 L. D., 643.)

RELINQUISHMENT OF PRE-EMPTION FILINGS.

Pre-emption filings may be relinquished by the claimants in writing, filed with the register and receiver of the proper district land office, or the relinquishment may be executed by the claimant on the back of the declaratory statement receipt. Notice of such relinquishment should be promptly forwarded by the register to the Commissioner of the General Land Office for his information.

PROOF AND PAYMENT.

On *offered* lands proof and payment must be made within twelve months from date of settlement.

If the land is *unoffered*, proof and payment may be made within thirty-three months from date of settlement, or in case of unsurveyed lands from date of filing plat of survey in the district office.

The pre-emption laws are intended for the benefit of persons making settlement upon the public lands, followed by residence and improvement and the erection of a dwelling thereon. Residence must be both continuous and personal. (Bohall *v.* Dilla, 114 U. S. Supreme Court Reports, 47, 51.)

"It was necessary for the pre-emptor to prove that he occupied the premises continuously after filing his declaratory statement." (*Ibid.*)

The Department requires, in evidence of the genuineness of settlement, that six months of actual residence shall be passed before proof and payment, and then proof of compliance with law in all respects must be sufficient and satisfactory. A party offering proof in the shortest time can not be excused on that account for any non-compliance with the requirements of residence and agricultural improvement, since he is not obliged to make proof and payment at the earliest period the law allows, but has sufficient time within which to fully comply with the law.

A failure to make proof and payment as prescribed by law renders the land subject to appropriation by the first legal applicant, but in the absence of an adverse claim proof and payment can be made after the expiration of the twelve or thirty-three months allowed.

Failure to inhabit and improve the land in good faith, as required by law, renders the claim subject to contest and the entry to investigation and cancellation.

Final proof in pre-emption cases must be made to the satisfaction of the register and receiver, whose decision, as in other cases, is subject to examination and review by this office and Department.

When two or more settlers on unsurveyed land are found upon survey to be residing upon or to have valuable improvements upon the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it. (Rev. Stat., sec. 2274; Appendix No. 1.)

Publication of notice to make proof is required in the same manner as in homestead and other cases. (See "*Homesteads*," "*Final Proof.*")

In making final proof the pre-emptor must appear in person with his witnesses at the district office, or before the clerk of the county court, or of a court of record of the county and State or district and Territory in which the land is situated, and make the affidavit and proof prescribed. (Rev. Stat., sec. 2262, Appendix No. 1; act June 9, 1880, 21 Stat., 169, Appendix No. 4.)

The pre-emptor is required to make oath that he has not previously exercised his pre-emption right; that he is not the owner of 320 acres of land; that he has not settled upon and improved the land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; that he has not made any contract or agreement, directly or indirectly, in any way or manner, with any person whomsoever, by which the title he may acquire from the United States shall inure in whole or in part to the benefit of any person except himself. (See form 4—061.)

Any person swearing falsely *forfeits all right to the land and to the purchase money paid*, besides being liable to prosecution under the criminal laws of the United States.

Final proof, in addition to the affidavit of claimant, must consist of

the testimony of the claimant, corroborated by that of at least two witnesses, taken separately, to the facts constituting his qualifications, and his compliance with law as to settlement, inhabitancy, improvement, non-alienation, etc. (Rev. Stat., sec. 2263, Appendix No. 1; Forms 4—369*a*, 4—369*b*.)

The exact date of beginning and of ending of each and of every absence from the land should be particularly stated, and the reasons therefor fully given, so as to enable the Department to determine as to the sufficiency of the explanation.

The affidavit of claimant, his testimony, and the testimony of his witnesses, and the non-mineral affidavit (where required) must be made at the same time and place, and before the same officer.

No other officer than the register or receiver, or the clerk of a court of record of the county in which the land is situated, can take proofs in pre-emption cases, except that when the land is in an unorganized county the proofs may be made before the clerk of a court of record in an adjacent county in the same State or Territory.

GRASSHOPPERS.

Pre-emption settlers may avail themselves of the provisions of the law authorizing temporary absence and extending the time for making proof and payment in regions that have suffered from the depredations of grasshoppers. (Act July 1, 1879, 21 Stat., 48; Appendix No. 9. See "*Sufferers from Grasshoppers.*"

ASSIGNEE OF A PRE-EMPTOR BEFORE PATENT.

An assignee of a pre-emptor before patent has no claim upon the United States for the land nor for the money paid, in event of the failure of the claim and cancellation of the entry for fraud or false swearing by entryman. (Sec. 2262, Rev. Stat.; Appendix No. 1; M. F. Soto, 6 L. D., 383).

HEIRS OF A DECEASED PRE-EMPTOR.

Should a pre-emptor die without establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land, the entry to be made in the name of "the heirs" of the deceased settler, and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period during which the pre-emptor would have been entitled to do so had he lived. (Rev. Stat., Sec. 2269; Appendix No. 1.)

PRE-EMPTION CLAIMANTS WHO BECOME INSANE.

The rights of a pre-emption claimant who has become insane may, under act of June 8, 1880, be proved up and his claim perfected by any person duly authorized to act for him during his disability. (21 Stat., 166; Appendix No. 8.)

Such claim must have been initiated in full compliance with law, by a person who was a citizen or had declared his intention of becoming a citizen, and was in other respects duly qualified.

The party for whose benefit the act shall be invoked must have become insane subsequently to the initiation of his claim.

Claimant must have complied with the law up to the time of becoming insane; and proof of compliance will be required to cover only the period prior to such insanity; but the act will not be construed to cure a failure to comply with the law when the failure occurred prior to such insanity.

The final proof must be made by a party whose authority to act for the insane person during his disability shall be duly certified under seal of the proper probate court.

PRICE OF LAND TO PRE-EMPTORS.

The price of land to a pre-emptor upon "minimum" lands—*i. e.*, lands not within the limits of a grant to a railroad or some other work of internal improvement—is $1.25 per acre. Within the limits of such grant the price is $2.50 per acre; but settlers, prior to withdrawal, are allowed to enter at $1.25 per acre, provided they shall file notice of their claims and make proof and payment as in other cases. (Rev. Stat., secs. 2257, 2259, 2279, 2281, 2357; Appendix No. 1.)

OSAGE INDIAN TRUST AND DIMINISHED RESERVE LANDS.

The Osage Indian trust and diminished reserve lands are subject to sale to parties having the qualifications of pre emptors on the public lands.

Claimants are required to file a declaratory statement within three months from date of settlement, and to make proof and payment within six months from date of filing.

This proof must be made after notice by publication, before the officers authorized to take proof in pre-emption cases, and must show that the claimant is a qualified pre-emptor and an actual settler on the land at the date of application to enter. Six months' continuous residence next preceding date of proof is not an essential requirement, but it is essential that the settlement be shown to be actual and bona fide.

Payment for these lands must be made in cash at the rate of $1.25 per acre, and may be made by installments, one-fourth the purchase price when proof is made, the remainder in three equal annual installments with interest on the deferred payments at the rate of 5 per cent. per annum.

Section 3 of the act of May 28, 1880 (see Appendix No. 27) provides that when default in payment of any installment of the purchase money, when it becomes due, continues, the land may be offered at public sale, after advertisement, unless before the date fixed for the offering payment of the whole purchase price is completed.

After payment of the first installment of purchase money has been made, the lands are subject to taxation according to the laws of the State of Kansas.

Payment of the remaining installments must be made by the entryman or in his behalf, and patents can be issued to entrymen only.

By filing Osage declaratory statements in accordance with the act of May 28, 1880, the right of pre-emption to such or any other lands is exhausted if the filings are valid and capable of being perfected into complete title.

HOMESTEADS.

The homestead laws secure to qualified persons the right to settle upon, enter, and acquire title to not exceeding one quarter section or 160 acres of public land, by establishing and maintaining residence thereon, and improving and cultivating the land for the continuous period of five years.

A homestead entryman must be the head of a family, or a person who has arrived at the age of twenty-one years, and a citizen of the United States, or one who has filed his declaration of intention to become such, as required by the naturalization laws.

Lands subject to homestead entry are such as, under existing laws, are subject to pre-emption.

When a person desires to enter a tract of land upon which he has *not established a residence and made improvements*, he must appear *personally* at the district land office and present his application (Form No. 4—007), and must make the required affidavits before the *register or receiver.*

The homestead affidavit can be made before the clerk of the county court only in cases where the family of the applicant, or some member thereof, is *actually residing* on the land which he desires to enter, and on which he has made bona fide improvement and settlement, and when he is prevented by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office. (Rev. Stat., 2294; Appendix No. 1.)

In such cases the applicant must state in the affidavit (Form No. 4—089) the facts of settlement, improvement, and residence; what acts of settlement have been performed, and when made; the nature, extent, and value of the improvements; what member or members of his family are residing on the land, the length of time such residence has been maintained, and the cause, specifically, why the applicant can not appear at the local office.

A person in active service in the Army or Navy of the United States, whose family or some member thereof is residing on the land which he wishes to enter, and upon which a bona fide settlement and improvement has been made by them, may make the affidavit required by law before the officer commanding in the branch of service in which the applicant is engaged. (Rev. Stat., 2293; Appendix No. 1.)

A false oath taken before a clerk of a court under section 2294, Revised Statutes, or the proper officer, under 2293, is perjury, the same as if taken before the register or receiver.

The period of actual inhabitancy, improvement, and cultivation required under the homestead law is five years.

Where a wife has been divorced from her husband or deserted, so that she is dependent upon her own resources for support, she can make homestead entry as the head of a family or as a *femme sole.*

A single woman who makes a homestead entry and marries before making proof does not by her marriage forfeit her right to make proof and receive patent for the land, provided she does not abandon her residence on the land to reside elsewhere. A residence elsewhere than on the land entered for more than six months at any one time is to be treated as an abandonment of the homestead entry, under section 2297, Revised Statutes. (Appendix No. 1.)

APPLICATION FOR A HOMESTEAD.

To obtain a homestead the party should select and personally examine the land and be satisfied of its character and true description.

He must file an application, stating his name, residence, and post office address, and describing the land he desires to enter (Form 4—007), and make affidavit (Form 4—063); that he is over the age of twenty-one years or the head of a family; that he is a native-born (or naturalized) citizen of the United States, or has declared his intention to become a citizen, as required by the naturalization laws (or has performed service in the Army or Navy of the United States); and that the entry is made for his exclusive use and benefit, and for actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person, and that he has not theretofore made an entry under the homestead laws, and must pay the legal fee and that part of the commissions which is payable when entry is made.

On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee and that part of the commissions paid (Form 4—137), a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office and reported to the General Land Office.

HOMESTEAD SETTLERS ON UNSURVEYED LANDS.

A homestead settler on unsurveyed public land not yet open to entry must make entry within three months after the filing of the township plat of survey in the district land office. (Act May 14, 1880; 21 Stat., 140; Appendix No. 7.)

SIMULTANEOUS APPLICATIONS.

In cases of simultaneous applications to enter the same tract of land under the homestead laws, the rule is as follows:

First. Where neither party has improvements on the land the right of entry should be awarded to the highest bidder.

Second. Where one has actual settlement and improvement and the other has not, it should be awarded to the actual settler.

Third. Where both allege settlement and improvements, an investigation must be had and the right of entry awarded to the one who shows prior actual settlement and substantial improvements so as to be notice on the ground to any competitor. (Report of General Land Office for 1866, p. 19; also case of Helfrich *v.* King, 3 Copp, L. O., p. 164.)

RESIDENCE OF APPLICANT MUST BE STATED.

The applicant must in every case state in his application his place of actual residence and his post-office address, in order that notices of proceedings relative to his entry may be sent him.

INCEPTIVE RIGHTS OF HOMESTEAD SETTLERS.

An inceptive right is vested in the settler by the proceedings hereinbefore described. He must, within six months after making his entry, establish his actual residence, in a house, upon the land, and must reside upon and cultivate the land continuously, in accordance with law, for the term of five years.

Occasional visits to the land once in six months or oftener is not residence. The homestead party must actually inhabit the land and make it the home of himself and family, as well as improve and cultivate it.

At the expiration of five years, or within two years thereafter, he may make proof of his compliance with law by residence, improvement, and cultivation for the full period required, and must show that the land has not been alienated except as provided in section 2288, Revised Statutes. (Sec. 2291, Rev. Stat.; Appendix No. 1.)

The period of continuous residence and cultivation begins to run at the date of actual settlement, in case the entry at the district land office is made within the prescribed period (three months) thereafter or before the intervention of a valid adverse claim. If the settlement is on unsurveyed land the latter period runs from the filing of plat in the district land office. (Act May 14, 1880; 21 Stat., 140; Appendix No. 7.)

CULTIVATION IN GRAZING DISTRICTS.

In grazing districts, stock-raising and dairy production are so nearly akin to agricultural pursuits as to justify the issue of patent upon proof of permanent settlement and the use of the land for such purposes.

FINAL PROOF.

A settler desiring to make final proof must file with the register of the proper land office a written notice, in the prescribed form, of his intention to do so, which notice will be published by the register in a newspaper to be by him designated as nearest the land, once a week for six weeks, at the applicant's expense.

Applicants should commence to make their proofs in sufficient time, so that the same may be completed and filed in the local office within the statutory period of seven years from date of entry.

The final affidavits and proof may be made before the register or receiver, before the judge, or, in his absence, before the clerk of a court of record in the county and State, district, or Territory in which the land is situated. If in an unorganized county, the proof may be made in a similar manner in any adjacent county in the same State or Territory.

When proof under section 2291, Revised Statutes, is made before the county officers mentioned, the same must be transmitted by the judge or clerk of the court to the register and receiver, together with the same fees and commissions that the land officers would have been entitled to receive if the proof had been made before them and the testimony reduced to writing by them. In case of the absence of the judge, the fact of such absence must be certified in the papers by the clerk acting in his place.

Proofs can only be made by the homestead claimant in person, and can not be made by an agent, attorney, assignee, or other person, except that in case of the death of the entryman proof can be made by the statutory successor to the homestead right, in the manner provided by law.

HEIRS OF A HOMESTEAD SETTLER.

Where a homestead settler dies before the consummation of his claim, the widow, or, in case of her death, the heirs may continue settlement or cultivation, and obtain title upon requisite proof at the proper time.

If the widow proves up, title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them. (Sec. 2291, Rev. Stat.; Appendix No. 1.)

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States, or residence and cultivation may continue for the prescribed period, when the patent will issue to the children. (Sec. 2292, Rev. Stat.; Appendix No. 1.)

A homestead right can not be devised away from a widow or minor children.

In case of the death of a person after having entered a homestead, the failure of the widow, children, or devisee of the deceased to take up residence on the land within six months after the entry, or otherwise to fulfill the demands of the letter of the law as to residence, will not necessarily subject the entry to forfeiture on the ground of abandonment. If the land is cultivated in good faith the law will be considered as having been substantially complied with. (Tauer *v.* The Heirs of Walter A. Mann, 4 L. D., 433.)

HOMESTEAD CLAIMANTS WHO BECOME INSANE.

The rights of a homestead claimant who has become insane may be proved and his claim perfected, in the same manner and under the same restrictions as in the case of a pre-emption claimant who becomes insane. (Act June 8, 1880, 21 Stat., 166; Appendix No. 8.)

CONVERSION OF PRE-EMPTION INTO HOMESTEAD CLAIMS.

A person who has made settlement on a tract and filed his pre-emption declaration therefor, may change his filing into a homestead if he continues in good faith to comply with the pre-emption laws until the change is effected; and the time during which he has resided upon and claimed the land as a pre-emptor will be credited upon the period of residence and cultivation required under the homestead laws. (Act June 14, 1878, 20 Stat., 113; Appendix No. 6.) In his first homestead affidavit he must set forth the fact of a previous pre-emption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time, as provided for in the act. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the prescribed "pre-emption homestead affidavit" (Form 4–071).

GRASSHOPPERS.

Homestead claimants, equally with pre-emptors, may avail themselves of the provisions of law authorizing temporary absence in regions that have suffered from the devastation of grasshoppers (Act July 1, 1879, 21 Stat., 48; Appendix No. 9); but, where a homestead claimant is absent under the provisions of this act, the time of making final proof is not thereby extended (the provision in respect to extension of time being limited in its application to pre-emptors). See "*Sufferers from Grasshoppers.*"

CLIMATIC HINDRANCES.

The proviso annexed to section 2297, Revised Statutes, by amendatory act of March 3, 1881 (21 Stat., 511; Appendix No. 10), which applies

only to homestead settlers, provides that in case such settler has been prevented by climatic reasons from establishing actual residence upon his homestead within six months from date of entry, the Commissioner of the General Land Office may, in his discretion, allow him twelve months from that date in which to commence his residence.

In such case the settler must, on final proof, file with the register and receiver his affidavit, duly corroborated by two credible witnesses, setting forth in detail the storms, floods, blockades by snow or ice, or other hindrances dependent upon climatic causes which rendered it impossible for him to commence residence within six months. A claimant can not be allowed twelve months from entry when it can be shown that he might have established his residence on the land at an earlier day; and a failure to exercise proper diligence in so doing as soon as possible after the climatic hindrances disappear will imperil his entry in case of a contest.

HOMESTEAD CLAIMS NOT LIABLE FOR DEBT AND NOT SALABLE.

No lands acquired under the provisions of the homestead laws are liable for the satisfaction of any debt contracted prior to the issue of patent. (Sec. 2296, Rev. Stat.; Appendix No. 1.)

The sale of a homestead claim by the settler to another party before completion of title vests no title or equities in the purchaser as against the United States. In making final proof, the settler is by law required to swear that no part of the land has been alienated except for church, cemetery, or school purposes, or the right of way of railroad. (Sec. 2288, Rev. Stat.; Appendix No. 1.)

ONLY ONE HOMESTEAD PRIVILEGE TO THE SAME PERSON PERMITTED.

As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim can not thereafter make a second entry although where the entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may have the fee and commissions paid on the canceled entry refunded on proper application under the act of June 16, 1880. (Appendix No. 21; Hannah M. Brown, 4 L. D., 9; Goist *v.* Bottum, 5 L. D., 643; Jasper N. Shepherd, 6 L. D., 362.)

Where a party makes a selection of land for a homestead, he must abide by his choice. If he has neglected to examine the character of the land prior to entry and it proves to be infertile or otherwise unsatisfactory, he must suffer the consequences of his own neglect.

In some cases, however, where obstacles which could not have been foreseen, and which render it impracticable to cultivate the land, are discovered subsequently to entry (such as the impossibility of obtaining water by digging wells or otherwise), or where, subsequently to entry, and through no fault of the homesteader, the land becomes useless for agricultural purposes (as where by the deposit of "tailings" in the channel of a stream a dam is formed, causing the waters to overflow), the entry may, in the discretion of the Commissioner of the General Land Office, be canceled and a second entry allowed; but, in the event of a new entry, the party will be requried to show the same compliance with law in connection therewith as though he had not made a previous entry, and must pay the proper fees and commisssions upon the same.

HOMESTEAD FEES AND COMMISSIONS.

The land office fees and commissions, *payable when application is made*, are as follows:

In Alabama, Arkansas, Dakota, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, and Nebraska (Rev. Stat., 2238, Appendix No. 1)—

	Land at $2.50 per acre.	Land at $1.25 per acre.
For 160 acres	$18.00	$14.00
For 80 acres	9.00	7.00
For 40 acres	7.00	6.00

In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (Rev. Stat., 2238, par. 12, Appendix No. 1)—

	Land at $2.50 per acre.	Land at $1.25 per acre.
For 160 acres	$22.00	$16.00
For 80 acres	11.00	8.00
For 40 acres	8.00	6.50

The land office commissions, *payable at the time of making final proof*, are as follows:

In Alabama, Arkansas, Dakota, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, and Nebraska (Rev. Stat. 2238, Appendix No. 1)—

	Land at $2.50 per acre.	Land at $1.25 per acre.
For 160 acres	$8.00	$4.00
For 80 acres	4.00	2.00
For 40 acres	2.00	1.00

In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (Rev. Stat., 2238, par. 12, Appendix No. 1)—

	Land at $2.50 per acre.	Land at $1.25 per acre.
For 160 acres	$12.00	$6.00
For 80 acres	6.00	3.00
For 40 acres	3.00	1.50

COMMUTATION OF HOMESTEAD ENTRIES.

If a homestead settler does not wish to remain five years on a tract, he may pay for it with cash. Military bounty-land warrants, agricultural college scrip, and private land-claim scrip may be located in lieu of cash payment.

To entitle a homestead claimant to the land upon making such payment he must prove his actual settlement, improvement, and cultivation for not less than six months preceding date of proof. Residence on the land must be actual and continuous for the prescribed period.

Parties commuting homestead entries can not be excused from any cause for failure to live upon, improve, and cultivate the land for the required period. They are not obliged to make proof in the short time in which commutation is allowed, and when such proof is made full compliance with law must be satisfactorily shown.

A person who commutes a homestead entry can not while owning the tract move therefrom and settle upon public land in the same State or Territory as a pre-emptor. (Sec. 2260, Rev. Stat.)

Proof of settlement and cultivation for the prescribed period is to be made in the same manner as in pre-emption cases.

A person commuting a homestead entry by false swearing when he has not actually resided upon the land and improved and cultivated it as required by law, *forfeits all right to the land and to the parchase money paid*, and in addition thereto renders himself liable to criminal prosecution. (M. F. Soto, 6 L. D., 383.)

ACT OF JUNE 15, 1880.

A further right of making cash payment for lands originally entered as a homestead accrues under the act of June 15, 1880 (21 Stat., 237; Appendix No. 15), which allows any party who had entered a homestead prior to that date (or any person to whom such party may have attempted to transfer his right by a bona fide instrument in writing) to pay the Government price (less the fee and commissions) for the land covered by such entry, provided it was originally subject to entry, and provided it had not been subsequently entered by any other person under the provisions of law. (Maughn, 9 Copp, 56; Miller, *id.*, 57; Weaver, *id.*, 9; Bishop, *id.*, 95; George E. Sandford, 5 L. D., 535.) He can not, however, be permitted to exercise such right so as to bar the preferred right of a contestant under act of May 14, 1880 (21 Stat., 140, Appendix No. 7), after contest initiated. (Freise *v.* Hobson, 4 L. D., 580.)

In case the original homestead party applies to purchase, if he has lost his duplicate receipt, he must make oath that he has not, prior to the passage of said act, transferred nor attempted to transfer his homestead rights under said entry, and that he has not assigned his right to receive the repayment of the fees, commissions, and excess payments paid thereon. The register will certify to the receiver the amount to be allowed as credit for fees and commissions already paid, the applicant first making oath that said fees and commissions have not been repaid, and that no application for such repayment has been made. In case he had attempted to transfer his right he may still be permitted to purchase, upon filing proof of the consent of the person to whom such transfer was attempted to be made.

ATTEMPTED TRANSFER OF HOMESTEAD RIGHTS.

In case a party to whom a homestead settler has attempted to transfer his right desires to take advantage of the act, the register and re-

ceiver will require the instrument in writing by which it was sought to transfer such homestead right to be filed, together with the best evidence attainable of the bona fide character of the transfer, including the affidavit of the party who seeks to purchase.

In case of doubt as to the propriety of allowing the application to purchase, they should refer all the papers to the General Land Office, accompanied by an expression of their opinion based upon a full recital of the facts.

FORM OF ENTRY.

The application must be made as in ordinary cash entry (Form 4—001) and must be accompanied by the receiver's duplicate homestead receipt, or, if that has been lost or destroyed, by an affidavit setting forth such fact, and giving the register's and receiver's number and date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880.

Entries under said second section will receive current register's and receiver's numbers in the regular cash series, and will be returned in the same manner as in other cases of cash entry, referring, however, in each instance, on the cash abstracts, certificates, and receipts, to the date of the act authorizing the entry, the register's and receiver's number of the original homestead application, and the amount allowed as credit for fees and commissions, as follows: "Act June 15, 1880. Original homestead entry No. —. Credit for fees and commissions, $———."

Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected.

Warrants and scrip made receivable by law for lands subject to sale at private entry, or in commutation of homestead or pre-emption rights, are receivable for lands purchased under this act.

Where land purchased under this act is paid for with warrants or scrip there would be no claim for repayment on account of the fee and commissions paid on the original homestead entry; and the existing rule must be observed, that where the value of warrants or scrip exceeds that of the lands entered therewith no repayment on account of such excess is authorized, but the warrant or scrip applied must be fully surrendered (see "Warrant Locations").

ADJOINING FARM HOMESTEADS.

A person possessing the requisite qualifications under the homestead law, owning and residing on land not amounting in quantity to a quarter-section, may enter other land lying contiguous to his own to an amount which shall not, with the land already owned by him, exceed in the aggregate 160 acres. For instance, if he has purchased or obtained from the Government or from any other party 40 acres of land, he can, under the provisions of the homestead law, enter 120 acres adjoining; if he is the owner of 80 acres, he can enter another tract of 80 acres; if he is the owner of 120 acres he can enter 40 acres additional. (Sec. 2289, Rev. Stat., Appendix No. 1.) The party must fulfill the requirements of the homestead law as to residence and cultivation, but will not be required to remove from the land which he originally owned in order to reside upon and cultivate that which he thus acquires under the homestead law, since the whole 160 acres are considered as constituting one farm or body of land, residence upon and cultivation of a portion of which is

equivalent to residence upon and cultivation of the whole, except that patent for the adjoining homestead will not be issued until five years from date of entry thereof.

HOMESTEAD SETTLERS WITHIN RAILROAD LIMITS.

Homestead settlers within the limits of grants for railroads or wagon roads, except grants of even sections in Alabama, Mississippi, and Louisiana, who were restricted to 80 acres by law previous to March 3, 1879 (or in Missouri and Arkansas prior to July 1, 1879), may enter an additional 80 acres adjoining the land embraced in the original entry, if such additional land is subject to entry; or if the party so elects he may surrender his original entry and make a new entry for 160 acres elsewhere. (Acts March 3, 1879, 20 Stat., 472; July 1, 1879, 21 Stat., 46; Appendix, Nos. 11, 12.)

The following paragraphs I and II are here presented in explanation of the history of the legislation just referred to, viz:

I. The laws extending the homestead privilege, embraced in sections 2289 to 2312 of the Revised Statutes, give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands, since extended to *unsurveyed* lands by act of May 14, 1880. (Appendix, No. 7). This right was limited by section 2289 of the Revised Statutes, as the maximum quantity, to 160 acres of the class of ordinary public lands held by law at $1.25 per acre, when disposed of to cash purchasers, or 80 acres of the class of lands embraced in the alternate sections, along the lines of railroads or other works of internal improvement, reserved to the United States in acts of Congress making grants of land in aid of the construction of such works, and the price thereof increased to $2.50 per acre. By act of Congress of March 3, 1879, it was enacted that from and after its passage "the *even* sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of 160 acres to each settler," thus doing away in this class of entries with the distinction between ordinary minimum and double minimum lands, or lands held at $1.25 per acre and lands held at $2.50 per acre, which had existed under section 2289 of the Revised Statutes of the United States, so far as the double minimum lands may be found in *even* sections within the limits of land grants for railroads or military roads. These provisions did not extend so as to embrace any double minimum lands in *odd* numbered sections, or in the limits of grants for any other description of public works. By act of July 1, 1879, the same provisions were extended to the *odd* sections in the States of Missouri and Arkansas, where the *odd* sections were reserved to the United States, the price of the lands therein enhanced, and the *even* sections granted for the purposes of improvement. Both acts were inoperative in any case where the even sections were granted, the *odd* being reserved, and not within the States of Missouri and Arkansas, as in certain grants in Alabama, Mississippi, and Louisiana; but the double minimum lands in the two last-mentioned States having been brought into market at the enhanced price prior to the 1st January, 1861, are now reduced to $1.25 per acre under the third section of the act of June 15, 1880.

II. The act of March 3, 1879, in addition to its provision already referred to, provides, first, that "any person who has under existing laws taken a homestead on any even section within the limits of any rail-

road or military road land grant, and who by existing laws shall have been restricted to 80 acres, may enter under the homestead laws an additional 80 acres adjoining the land embraced in his original entry, if such additional land be subject to entry," without payment of fees and commissions, and that "the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional entry, and shall be deducted from the five years' residence required by law," with the proviso, however, that in no case shall patent issue "until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land" embraced in his additional entry "at least one year." The act of July, 1, 1879, is similar in effect as regards persons who had taken homesteads on the odd-numbered sections reserved from such grants in Missouri and Arkansas.

The right to make an additional entry under these acts or to surrender the original entry and make a new one descends to the statutory successor to the original homestead right, but is not subject to sale or assignment. The additional or the new entry, as the case may be, can be made only by the homestead claimant, or, if he be dead, by the widow, devisee, or other successor to the right.

An entry may be made under these acts, although the original entry was commuted by cash payment.

A woman who has married since making original entry is not thereby disqualified from making an additional entry under these acts.

A person making additional entry of 80 acres, or new entry after surrender and cancellation of his original entry, can do so without payment of further fees and commissions. (Acts March 3, 1879, 20 Stat., 472; and July 1, 1879, 21 Stat., 46; Appendix, Nos. 11 and 12.)

Where additional entry is made on lands adjoining an original entry upon which proof has been made, no further proof or payment is required additional to the proof and payment already made on the original entry. (Act May 6, 1886, 24 Stat., 22; Appendix No. 13.)

But in case of an additional entry when proof on the original entry has not been made, the proof and payment to cover both the original and additional entry must be made at the same time and in the same manner, and where a party surrenders his original entry and makes a new one he must comply with the law in respect to residence, improvement, and cultivation for such period as, with his residence on the original tract, will make five years, and he must, in any event, reside upon, improve, and cultivate the land embraced in the new entry for at least one year.

In applying for an additional entry the party must make affidavit before the register or receiver, describing the tract upon which he resides. (Form 4—086.) If final proof on the original entry has not been made, he must submit proof setting forth the particulars of his existing entry and of his compliance with legal requirements regarding the same (Form 4—369 a and 4—369 b); and he must make application according to Form 4—018.

If final proof on the original entry has been made and certificate issued, the register and receiver, in reporting the case, will make a reference to the certificate, giving the number and date, so that it may be identified on the records of the General Land Office.

The register and receiver, if they find the original entry to be intact upon their records, whether patented or not, will allow the entry applied for, note the same on their records, giving it the proper number in the

regular homestead series, and report it with their monthly homestead returns, indicating its character as an additional entry on the margin of their monthly abstracts, with a reference to the original entry by its number and the description of the land. The money columns in the abstracts will of course be left blank, since there will be no fees and commissions paid.

The applicant for an additional homestead entry must swear that he did not serve in the Army or Navy of the United States for ninety days or more; for persons who thus served were not restricted to 80 acres under previously existing laws, and consequently are not entitled to the benefits of the acts amending said laws approved March 3, 1879, and July 1, 1879.

In order to entitle a homestead entryman to an additional entry under the act of March 3 or July 1, 1879, and to a patent for such additional entry under the act of May 6, 1886, his original entry must be a valid, bona-fide entry, and the proofs presented in support thereof must have been accepted by this office.

Registers and receivers will, therefore, in no case (except where patent has issued on the original entry), issue a final certificate on the additional entry until they have been advised by this office that final proof on the original entry has been approved and the additional entry accepted. When so advised they will issue final certificate on the additional entry without cost to the entryman and forward the same to this office. (Circular July 26, 1886, 5 L. D., 128.)

Settlers within railroad limits who have purchased from a railroad company lands in railroad sections which are afterwards for any cause restored to the public domain are entitled to make entry of the lands so occupied by them, under the general provisions of the settlement laws.

If they have exhausted their homestead, pre-emption, and timber-culture rights, they are allowed under the act of January 13, 1881 (21 Stats., 315, Appendix No. 14), to purchase from the United States within three months after restoration, at $2.50 per acre, not exceeding 160 acres of land which they settled upon and improved with the expectation of purchasing from the company.

Every person applying to make entry under the act of January 13, 1881, must make and subscribe the following affidavit:

I, —— ———, of ———, claiming the right to enter the ——— of section ——, township ———, range ———, under the provisions of the act of Congress approved January 13, 1881, entitled "An act for the relief of certain settlers on restored railroad lands," do solemnly ——— that I was an actual settler on said tract at the time of the restoration thereof to the public domain of the United States, to wit, on the —— day of ———, 18—; that prior to said time I had made valuable and permanent improvements on the land; that my settlement was made in good faith and with the permission or license of the ——— Railroad Company and with the expectation of purchasing said land from said company, and that I am not entitled to enter and acquire title to said land under the pre-emption, homestead, or timber-culture laws of the United States for the reason that ————————; and that my improvements on said land at the date of the restoration thereof to the public domain consisted of ————————.

The foregoing affidavit may be made before the register and receiver or any officer authorized to administer oaths in the county in which the lands are situated. It must be supported by satisfactory evidence that the settlement was made with the permission or license of the railroad company and with the expectation of purchasing the land from said company. The testimony of two competent witnesses will be required, showing that applicant's settlement was made prior to

the restoration of the land, and stating the value and extent of his or her improvements. (Circular January 28, 1881, and circular April 30, 1886.)

SOLDIERS' AND SAILORS' HOMESTEAD RIGHTS.

Any officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion and who was honorably discharged and has remained loyal to the Government and who makes a homestead entry of 160 acres or less on any land subject to such entry, is entitled under section 2305 of the Revised Statutes (Appendix No. 1) to have the term of his service in the Army or Navy, not exceeding four years, deducted from the period of five years' residence required under the homestead laws.

If the party was discharged from service on account of wounds or disabilities incurred in the line of duty, the whole term of enlistment, not exceeding four years, is to be deducted from the homestead period of five years; but no patent can issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he commenced his improvements. (Sec. 2305, Rev. Stats., Appendix No. 1.)

A party applying to make entry under the provisions of section 2304 must file with the register and receiver a certified copy of his certificate of discharge, showing when he enlisted and when he was discharged; or the affidavit of two respectable, disinterested witnesses corroborative of the allegations contained in the prescribed affidavit (Form 4—065) on these points, or, if neither can be procured, his own affidavit to that effect.

A SOLDIER MAY FILE A DECLARATORY STATEMENT IN PERSON.

The filing must be accompanied by the oath of the soldier, stating his residence and post-office address, and setting forth that the claim is made for his exclusive use and benefit, for the purpose of actual settlement and cultivation, and not either directly or indirectly, for the use or benefit of any other person; and that he has not theretofore either made a homestead entry or filed a declaratory statement under the homestead law (Form 4—546). The fee is $2, except in the Pacific States and Territories, where the fee is $3.

A SOLDIER'S CLAIM MAY BE FILED BY AN AGENT.

Any such officer, soldier, sailor, or marine may file his claim for a tract of land through an agent, and may have six months thereafter within which to make his actual entry and commence his settlement and improvements upon the land. (Rev. Stat., 2309; Appendix No. 1).

In addition to the oath heretofore prescribed, the oath, in case of filing by an agent, must further declare the name and authority of the agent and the date of the power of attorney or other instrument creating the agency, adding that the name of the agent was inserted therein before its execution. It should also state in terms that the agent has no right or interest, direct or indirect, in the filing of such declaratory statement (Form 4—545).

The agent must file (in addition to his power of attorney) his own oath to the effect that he has no interest, either present or prospective, direct or indirect, in the claim; that the same is filed for the sole benefit of the

soldier, and that no arrangement has been made whereby said agent has been empowered at any future time to sell or relinquish such claim, either as agent or by filing an original relinquishment of the claimant (Form 4—545).

As implied by the requirement of the oath, a soldier will be held to have exhausted his homestead right by the filing of his declaratory statement; it being manifest that the right to file is a privilege granted to soldiers in addition to the ordinary privilege only in the matter of giving them power to hold their claims for six months after selection, before entry; but is not a license to abandon such selection with the right thereafter to make a regular homestead entry independently of such filing. This is clear from the statutory language. Section 2304 provides that "the settler shall be allowed six months, after locating his homestead and filing his declaratory statement, within which to make his entry and commence his settlement and improvement;" and section 2309 requires him "in person" to "make his actual entry, commence settlement and improvement on *the same*, and thereafter fulfill all the requirements of law." These must be done on "the same" land selected and located by the filing.

The foregoing rule, however, will not be construed to require the rejection of an application to enter the tract filed upon after the lapse of six months, when climatic reasons are shown, which in case of an actual entry would, under the act of March 3, 1881 (21 Stat., 511; Appendix No. 10), justify an allowance of one year for establishing residence; nor in cases where the failure results from sickness, misfortune, or any insurmountable cause, which shall be properly alleged and satisfactorily shown, and where no adverse right has intervened.

Where such cause has prevented entry and an adverse right has been admitted, it will be held proper within the discretion of the General Land Office to allow an entry upon another tract: *Provided*, That it shall be shown to the full satisfaction of the Commissioner that the default was practically beyond the power of the claimant to avoid.

Following the accepted practice in pre-emption cases, the filing of a declaratory statement will not be held to bar the admission of filings and entries by others; but any person making entry or claim during the period allowed by law for entry of the soldier will do so subject to his right; and the soldier's application when offered within such time will be allowed as a matter of right and operate to exclude the intervening claim.

In case any register and receiver have cause to believe that any filing offered for record is not presented in good faith, they will reject the same, allowing an appeal from their action according to the regular practice.

Entries cannot be made for a soldier or sailor by an agent or attorney.

The entry can be made only by the soldier or sailor, and he must commence his settlement on the land within six months after his filing, and must continue to reside on the land and cultivate it for such period as, added to his military or naval service, will make five years. But he must actually reside upon the land at least one year whatever may have been the period of his military or naval service.

The widow, or, in case of her death or remarriage, the guardian of minor children, may complete an entry made by the soldier or sailor, and patent will issue accordingly.

In case of the death of any person who would be entitled to a homestead under the provisions of section 2304 his widow, or, in case of her

death or remarriage, his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, may make the filing and entry in the same manner that the soldier or sailor might have done, subject to all the provisions of the homestead laws in respect to settlement and improvement; and the whole term of enlistment in the military or naval service shall be deducted from the time otherwise required to perfect the title. (Sec. 2307, Rev. Stat.; Appendix No. 1.)

The ruling hereinbefore stated relative to the widow or minor children of another deceased homestead party as to actual residence is equally applicable to the widow or minor children of a deceased sailor or soldier; if the land is cultivated in good faith the law will be regarded as substantially complied with, although the widow or children may not actually reside upon the land.

In case of widows, the prescribed evidence of military service of the husband must be furnished, with affidavit of widowhood, giving date of the husband's death.

In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or remarriage of the mother must be furnished. Evidence of death may be the testimony of two witnesses, or a physician's certificate duly attested. Evidence of marriage may be certified copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship, which must be transmitted to the General Land Office by the registers and receivers with their abstracts of soldiers' declaratory statements.

SOLDIER'S ADDITIONAL HOMESTEAD ENTRY.

An officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion, who had, prior to June 22, 1874, the date of approval of the Revised Statutes, made a homestead entry of less than 160 acres, may enter an additional quantity of land, adjacent to his former entry or elsewhere, sufficient to make, with the previous entry, 160 acres. (Rev. Stat., 2306; Appendix No. 1.)

This right (extended by sec. 2307, Rev. Stat., to the widow, if unmarried, otherwise to the minor orphan children by proper guardian) is a *personal* one, and is not transferable; it is not subject to assignment or lien, nor can it be exercised by another.

The practice which formerly prevailed of certifying the additional right as information from the records of the General Land Office and permitting the entry to be made by an agent or attorney has been discontinued.

The party desiring to make an additional entry and being entitled thereto must present himself at the land office of the district in which the land he wishes to enter is situated and make his application in the same manner as in case of an original entry (Form No. 4—008).

In addition to the usual homestead affidavit the claimant must make a special affidavit showing—

First. His identity as the soldier he represents himself to be, reciting his military service and stating his present residence and post-office address.

Second. The facts in detail, setting forth his right to make the additional entry and that he has fully complied with the provisions of the homestead laws in the residence upon and cultivation and improvement of his original entry and stating whether or not he has proved up his claim and received a patent for the land. Proper reference must be made to the original homestead entry, giving the name of the district office wherein it was made, the date and number of the entry, and the description of the land.

Third. That he has not in any manner previously exercised his additional right either by entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired.

The foregoing affidavits must be sworn to *and subscribed* in the presence of the register or receiver. This rule must be strictly adhered to in order to avoid false personation; and applications and affidavits presented to the register and receiver with signature attached *will not be received.*

The foregoing rules will not be deemed to apply to cases where the additional entry has heretofore been certified by the General Land Office, nor to cases pending which were filed therein prior to March 16, 1883.

Where the party's first entry has been consummated the register and receiver will require him to pay the same fee and commissions as in cases of original entry, the receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers and the final papers therefor, in such cases, shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the receiver will issue his receipt; the register will thereupon issue his final certificate for the additional tract (Form 4—197), the receipt and certificate to bear their proper numbers in the final homestead series, likewise a reference to the original entry and to the final certificate thereon by their numbers, and also by their district where the party's first entry shall have been made in a different district.

In case the party has not made proof on his original homestead entry when he applies for additional land, he will be allowed to make the additional entry on proper application, as above stated, and paying the usual fee and commissions, for which the receiver will issue his receipt, the papers to receive their proper numbers in the homestead series, with a reference thereon to the original entry. Thereafter, when the party shall make final proof on the original entry, he will be required to pay the final commissions on both entries, when a final receipt will be issued for the money, and thereupon a final certificate issued to call both for the tract in the original entry and the additional tract. On these papers the register and receiver will make a reference to the original and the additional entry, and on them one patent will issue for both. But where it happens that the original entry and the additional entry are made in different land districts, this rule must be departed from so far as regards the issuing of one final certificate and receipt for both.

PARTIAL WAIVER OF HOMESTEAD RIGHTS.

The election of a qualified party, when filing for a homestead, to take less than the law allows him, is construed as a waiver of his claim for a

larger quantity; and the same in case of an adjoining farm entry or soldier's additional entry.

(But when an additional homestead claim was filed for 40 acres by a homesteader whose original entry was 120 acres, and 40 acres of this original entry had been canceled, but notice of the cancellation had not reached him when he filed for the additional 40 acres, this was *not* considered a waiver of the full amount, since he filed for all that he supposed was due him.)

The acts of March 3 and July 1, 1879, providing that a person who had taken a homestead to the extent of 80 acres within the granted limits of a railroad grant, on the alternate sections belonging to the Government, might enter an additional contiguous 80 acres, are not construed as allowing a person who elected to take but 40 acres under the original homestead law to take an additional 120 acres under these amendatory acts.

INDIAN HOMESTEADS.

By the provisions of the Indian appropriation act of July 4, 1884 (23 Stats., 96, Appendix No. 16), any Indians who might then be located on public lands or should thereafter so locate may avail themselves of the privileges of the homestead laws as fully and to the same extent as citizens of the United States, but without payment of fees or commissions on account of such entries or proofs.

Indian homesteads can not be commuted and are not subject to sale, assignment, lease, or incumbrance. All patents issued for Indian homesteads must be of the legal effect and declare that the United States does and will hold the land thus entered for the period of twenty-five years in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

Upon any Indian applying to enter land under said act he will be allowed to do so without payment of fee or commissions, but will be required to furnish a certificate from the agent of the tribe to which he belongs that he is an Indian of the age of twenty-one years or the head of a family and not the subject of any foreign country. The entries will be numbered in the same series as other homesteads, but the papers, abstracts, and tract-books should be annotated "Indian homestead, act July 4, 1884."

FIVE-YEAR NOTICE AND SEVEN-YEAR NOTICE.

Registers and receivers will notify homestead claimants, on the expiration of the *five*-year period and of the *seven*-year period, according to Forms 4—343 and 4—344, respectively.

SUFFERERS FROM GRASSHOPPERS.

The first section of the act of July 1, 1879, "for the relief of settlers on the public lands in districts subject to grasshopper incursions," provides that homestead and pre-emption settlers on public lands where crops have been destroyed or seriously injured by grasshoppers may

leave and be absent from said lands for a period not to exceed one year continuously, under such rules and regulations as the Commissioner of the General Land Office shall prescribe, being allowed afterward to resume and perfect their settlement as though no such absence had occurred. The second section provides that the time for making final proof and payment by pre-emptors whose crops had been destroyed or injured as aforesaid may, at the discretion of the Commissioner, be extended for one year. (21 Stats., 48; Appendix No. 9.)

A settler desiring to take advantage of the provisions of this act should file with the register and receiver a written notice of intended absence, bearing his own signature, and embracing a statement that he had sustained loss or failure of his crops. This should be noted on the tract-books for the protection of the claimant and the information of parties who might otherwise make settlement and attempt to obtain title.

Pre-emption settlers desiring the extension of time provided for in the second section of the act should apply therefor through the same officers, the application to be supported by the same character of proof, which should be made before the register or receiver of the district land office or before any officer using a seal and authorized to administer oaths.

Upon making final proof the settler having been absent under the first section should file his affidavit, with the affidavits of two or more witnesses, corroborative thereof, stating the particulars of the alleged destruction or serious injury of crops by grasshoppers.

The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should specifically show at what time the party left the land and when he resumed his settlement.

The affidavits required in cases arising under this section of the act must be made at the same time and place and before the same officer taking the other proofs.

SUFFERERS FROM DROUGHT IN KANSAS AND NEBRASKA IN 1879 OR 1880.

The act of June 4, 1880, "for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska," provided that pre-emption settlers on the public lands, or pre-emption settlers upon Indian reservations in the States of Kansas and Nebraska, west of the sixth principal meridian, where there was a loss or failure of crops from unavoidable cause in the year 1879 or 1880, might leave and be absent from said lands until the 1st day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office might prescribe—such settlers being allowed to resume and perfect their settlements as though no such absence had occurred; and the time for making final proof and payment by such pre-emptors was extended for one year. In cases where the purchase money was by law payable in installments, the first unpaid installment was held not to be due until one year after the expiration of the leave of absence aforesaid. (21 Stat., 543; Appendix No. 28.)

The lands to which the provisions of this act applied were included within the land districts of Wichita, Salina, Concordia, Larned, Kirwin, Wa Keeney, Oberlin, and Garden City (all the districts except Topeka, and Independence), in Kansas; and Niobrara, Lincoln, Grand Island, North Platte, Bloomington, Beatrice, Neligh, Valentine, and McCook (all the districts), in Nebraska. Land lying east of the one hundredth

meridian in any one of these districts did not come within the provisions of this act.

This act, since it referred to a loss or failure of crops during only the years 1879 or 1880, is now obsolete; but any pending cases will be adjudicated under the original instructions, which were as follows:

This right of absence is not available in any case in which there has not been "a loss or failure of crops from unavoidable cause in the year 1879 or 1880;" hence, when, a settler not actually entitled to the benefits of this act absents himself from his claim, it will be liable to be regarded as an abandonment, and adverse claims may be recognized.

The settler desiring to leave his claim under this act should file with the register and receiver of the proper district land office a written notice of his intention to do so, bearing his signature, and embracing a statement that he has sustained a loss or failure of his crops in 1879 or 1880, this being necessary for his own protection, and as notice due parties who might otherwise initiate claims to the land.

At date of final proof by any party who shall have availed himself of this act he must show by satisfactory proof the period of absence, and specific facts making appear the loss or failure of crops from unavoidable cause in 1879 or 1880, on account of which he was entitled to its benefits. The proof should consist of the party's own testimony, corroborated by that of two or more disinterested witnesses.

After a party shall have filed the notice of intended absence under this act, no contest involving his right to the land can be instituted prior to the expiration of the legal term of absence to which he is entitled. If the party should be fraudulently absent, it will be a matter of investigation in the regular manner thereafter. All notices filed will be duly entered on the records of the district office, and reported with the final proof made in the case.

NECESSARY TIMBER ON PUBLIC LANDS.

Homestead or pre-emption claimants who have made bona-fide settlements upon public land, and who are living upon, cultivating, and improving the same in accordance with law and the rules and regulations of this Department, with the intention of acquiring title thereof, are permitted to cut and remove, or cause to be cut and removed, from the portion thereof to be cleared for cultivation, so much timber as is actually necessary for that purpose or for buildings, fences, and other improvements on the land entered.

In clearing for cultivation, should there be a surplus of timber over what is needed for the purposes above specified, the entryman may sell or dispose of such surplus; but it is not allowable to denude the land of its timber for the purpose of sale or speculation before the title has been conveyed to him by patent.

The abandonment of a settlement claim after the timber has been removed is presumptive evidence that the claim was made for the primary purpose of obtaining timber.

Squatters upon public lands have no right to cut timber therefrom for any purpose.

TIMBER CULTURE.

THE ACT OF MARCH 3, 1873.

The first act "to encourage the growth of timber on the western prairies" was passed March 3, 1873 (17 Stat., 605). It provided that "any person" (not restricting the privilege to heads of families, persons twenty-one years of age, and citizens or those who had declared their intention to become citizens of the United States) might under that act make an entry of not more than a quarter-section of the public land for

the purpose of the cultivation of timber thereon. The entryman was required to plant, protect, and keep in a healthy, growing, condition, for ten years, 40 acres of timber on the quarter-section entered—the trees not to be more than 12 feet apart each way. Final proof could be made at the expiration of ten years from the date of entry, or at any time within three years thereafter, when the party, or in case of his death his heirs or legal representatives, must prove his or their compliance with the law by two credible witnesses.

THE ACT OF MARCH 13, 1874.

March 13, 1874 (18 Stat., 21), an act was passed amendatory of, and from its date a substitute for, the act of March 3, 1873. This act restricted the privilege of timber-culture entry to citizens of the United States, or persons who had declared their intention to become citizens, and who were heads of families or had arrived at the age of twenty-one years. Forty acres of timber on the quarter-section—and the like proportion in case less than a quarter-section were entered—were required to to be planted (not less than 12 feet apart each way), protected, and kept in a growing condition. The party making entry was required to break 10 acres of land the first year after the date of the entry, 10 acres the second year, and 20 acres the third year; and to plant 10 acres of timber the second year, 10 acres the third year, and 20 acres the fourth year; or in proportion when the entry was less than a quarter-section. Final proof, substantiated by two credible witnesses, to the quantity and character of the timber, could be made at the expiration of eight years from the date of entry, or at any time within five years thereafter. Entries made under the act of March 3, 1873, could be completed and final proof made under the act of March 13, 1874, upon compliance with the provisions of the latter act. In case of the death of a person who had complied with the provisions of the act for three years the heirs or legal representatives had the option to continue the compliance for the remainder of the eight years and to receive patent accordingly, or receive patent for 40 acres outright by relinquishing all claim to the remainder.

AMENDMENT OF MAY 20, 1876.

The act of May 20, 1876 (19 Stat., 54), amendatory of the act of 1874 provided that whenever a party holding a claim or making final proof under said act should prove, by two credible witnesses, that the trees planted and growing on said claim were destroyed by grasshoppers during any one or more years, the time allowed in which to plant the trees and make final proof should be extended the same number of years as the trees planted were so destroyed. It also provided that the planting of seeds, nuts, and cuttings, when well and properly done, and the ground properly prepared and cultivated, should be considered a compliance with the timber-culture act; and that in case the seeds, nuts, or cuttings planted should not germinate and grow, or should be destroyed by the depredations of grasshoppers, or from other unavoidable accident, the ground should be replanted, or the vacancies filled within one year from the first planting. Parties claiming the benefit of this provision were to prove, by two good and credible witnesses, that the ground was properly prepared and planted, and that the destruction of the seeds, nuts, or cuttings was caused by inevitable accident. Under this act it is not necessary that the planting shall be done in one body, provided the several bodies, not exceeding four in number, aggregate the

amount required and in the time required by the original and amended act.

THE ACT OF JUNE 14, 1878.

The act of June 14, 1878 (20 Stat., 113, Appendix No. 17), is amendatory of the act of March 13, 1874, and as to all entries made since June 14, 1878, is a substitute for the prior act.

1. The only persons who are authorized to make timber-culture entries are heads of families or single persons who have attained the age of twenty-one years, and are citizens of the United States or have declared their intention to become such, and who have made no previous entry under the timber-culture laws.

2. Entries are restricted to one quarter section or 160 acres, which may be portions of contiguous subdivisions of the section, provided the entry forms a compact body of land.

3. No person can make more than one entry. Timber-culture rights once exhausted can not be restored by the Commissioner of the General Land Office.

4. No more than one-quarter of any section can be embraced in one entry, and the entire section must be exclusively prairie lands or other lands devoid of timber. The removal of a natural growth of timber will not render land subject to timber-culture entry.

5. A person applying to make a timber-culture entry must file the affidavit prescribed by law, showing his qualifications to make the entry; that the section of land specified in his application is composed exclusively of prairie or other lands devoid of timber; that the entry is made for the cultivation of timber and for his own exclusive use and benefit; that he makes his application in good faith, and not for the purpose of speculation, nor directly or indirectly for the use or benefit of any other person or persons whomsoever; that he intends to hold and cultivate the land and to fully comply with the provisions of the law, and that he has not heretofore made an entry under said timber-culture act or any act of which said act of 1878 is amendatory. (Form 4—073.)

Any person falsely swearing to this affidavit or to any affidavit required by law or regulations under the timber-culture act, is guilty of perjury, and will be punished as the law provides for such offense.

6. The foregoing affidavit, and the non-mineral affidavit, can be made only upon the personal knowledge of affiant, and neither of said affidavits can be made by any other person than the applicant himself.

7. Non-mineral affidavits will be required in all timber-culture entries in districts in which non-mineral affidavits are required in other cases of agricultural entry, and must in every instance accompany the original entry application, and must be made at the same time and place and before the same officer as the original timber-culture affidavit.

8. All affidavits required under the timber-culture laws must be made before the register or the receiver or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated. Timber-culture affidavits executed or signed outside of the district in which the land is situated, or executed or signed in blank, are illegal. Every affiant must be sworn personally by the officer taking the affidavit, at his office, and at the date specified in the jurat; and the officer taking the affidavit must certify that the person was so sworn and that the same was read in full to affiant before he affixed his signature thereto; and the attesting officer must certify to the identity and credibility of the party appearing before him.

9. Timber-culture entries can not be made for mineral lands, nor lands within the limits of town sites, or covered by municipal improvements.

10. Before allowing any entry applied for, the register and receiver will, by a careful examination of the tract and plat books, satisfy themselves that the entry applied for will not conflict with any other entry or entries previously made. They will require the party to pay the fee and that part of the commission payable at the date of entry, for which the receiver will issue his receipt in duplicate (Form 4—142), giving the duplicate receipt to the party.

11. The payments required by law on a timber-culture entry are as follows: For 80 acres or less, fee $5, to be paid at date of entry; commissions, $4; total, $9. For more than 80 acres, fee $10 at date of entry; commissions, $4; total, $14. Besides, in each case, $4 when final proof is made. No other fee, charge, gratuity, or reward is permitted to be paid or received for any services rendered at district land offices in connection with such entries. The receiver will account for the fees and commissions in the usual manner, indicating the same as fees and commissions on timber-culture entries. No distinction is made, as to area or the amount of fee and commissions, between minimum and double-minimum lands. The register and receiver will number the entry in its order and proper series of numbers, and will note the entry on their records and report the same in their monthly returns, sending up all the papers therein, with an abstract of the entries allowed during the month.

12. Five acres on a quarter-section must be broken or plowed the first year, and 5 acres the second year. The second year the first 5 acres must be cultivated to crop or otherwise. The third year the second 5 acres must be cultivated to crop or otherwise, and the first 5 acres must be planted in timber, seeds or cuttings. The fourth year the second 5 acres must be planted in timber, seeds or cuttings. Ten acres are thus to be plowed, planted, and cultivated on a quarter-section, and the same proportion when less than a quarter-section is entered. The whole 10 acres or the due proportion thereof must be prepared and planted within 4 years from the date of the entry, 5 acres being prepared the first and second years and planted the third year, and 5 acres being prepared the second and third years and planted the fourth year.

13. The preparation of the ground by breaking and cultivation to crops must be thorough. The plowing must be done at the proper season of the year and must be sufficiently deep to thoroughly break and mix the soil, and the cultivation to crop must be actual and bona fide. The object of the law is to promote the cultivation of timber, and land not made fit, by careful and thorough preparation, to produce a growth of trees, is not prepared as contemplated by law, and a failure to strictly comply with the law renders the entry liable to contest.

14. Trees, tree seeds, or cuttings must be of suitable character to germinate and grow with proper cultivation, and must be carefully and properly set out or planted, and at a proper season of the year to insure growth, and must be carefully and thoroughly cultivated.

15. Where land is selected for timber-culture entry which in its natural state will not produce trees without irrigation, the ground will not be regarded as properly prepared nor the trees as properly cultivated unless the land is irrigated and the trees kept watered.

16. Where the ground is properly prepared and cultivated, and the planting of suitable trees, seeds, or cuttings is well and seasonably done, and the same should not germinate and grow, the ground must be re-

planted and vacancies filled the same or next succeeding season. If the trees, seeds, or cuttings are destroyed by grasshoppers or by extreme and unusual droughts, the time of planting may be extended one year for every year of such destruction, upon the filing in the local office of an affidavit by the entryman, corroborated by two witnesses, setting forth the destruction and asking the extension of time provided for by the act.

17. The offering of relinquishments for sale after entry will be regarded and treated as evidence tending to prove the fraudulent or speculative character of the entry.

18. The following classes of trees are recognized as "timber" within the meaning of the law, viz: Ash (including mountain ash, or service tree), alder, basswood, beech, birch, box-elder, black walnut, butternut (otherwise called white walnut), cedar, chestnut, cottonwood, elm, fir, hickory, honey locust, larch, maple, oak, pine, spruce, sycamore (otherwise called buttonwood or cotton tree), white willow, whitewood (or tulip tree), and other trees recognized in the neighborhood as of value for timber, for firewood or domestic use, or for commercial purposes. Fruit trees, hedges, and shrubbery can not be classed as "timber," and their cultivation is not sufficient to satisfy the demands of the law.

19. Final proof can not be made until the expiration of eight years from date of entry, and may be at any time within five years thereafter, if cultivation has been made for the proper period, computed according to paragraph 22, and the law complied with in other respects. In making final proof it must be shown—

First. That not less than twenty-seven hundred trees of the proper character were planted on each acre required to be planted.

Second. That the quantity and character of trees as aforesaid have been cultivated and protected for not less than eight years preceding the time of making proof.

Third. That at the time of making proof there are growing at least six hundred and seventy-five living and thrifty trees to each acre.

20. Perfect good faith must be shown by claimants. If trees, seeds, or cuttings are destroyed they must be replanted; and not only must trees be planted, but they must be protected and cultivated in such manner as to promote their growth.

21. All entries since June 14, 1878, are made under the act of that date. Parties who made entries under any of the former acts may complete the same and make final proof under the act of 1878, upon showing that they have had under cultivation, for at least eight years, the number of acres required by the act of 1878, and at the time of presenting final proof have the number of living and thrifty trees required thereby; but they need not show that they followed the manner of planting prescribed by the latter act, if the planting was done in accordance with the requirements of any one of the preceding acts.

22. In computing the period of cultivation the time runs from the date when the total number of trees, seeds, or cuttings required by the act are planted.

23. Hereafter parties desiring to offer final proof in timber-culture cases will be required to file a notice of their intention with the register of the proper district land office, and the same shall be published in the same manner as in homestead and pre-emption cases.

24. In making final proof the claimant (or, if he be dead, his heirs or legal representatives) must appear in person with at least two witnesses at the land office of the district in which the land is situated, and there make the necessary proofs; or the affidavit of the party may be made,

and his testimony, and the testimony of his witnesses, given before a judge or clerk of a court of record in such land district; but all the proof must be taken at the same time and place and before the same officer.

25. The officer administering the oath or taking the testimony must certify to the identity and credibility of the party appearing before him.

26. The proof must set forth specifically and in detail all the facts of the case, showing when cultivation was commenced, the acts performed, amount of land plowed, cultivated, and planted, what was done in each year, the total number of trees planted, the total number growing, and their size and condition at date of proof, and any other facts or circumstances material to the case. (Forms 4—093, 4—385, and 4—386.)

27. The register and receiver will carefully examine the evidence, and, if found sufficient to show that the claimant has fully complied with the law, they will proceed (on payment of the final commissions allowed by law) to issue the final certificate and receipt in the manner prescribed in Forms 4—148 and 4—217.

28. Contests may be instituted against timber-culture entries for illegality or fraud in the inception of the entry, for failure to comply with the law after entry, or for any sufficient cause affecting the legality or validity of the claim. (See rule 1 *et seq.* of practice, approved August 13, 1885.)

29. Contestants of timber-culture entries since the adoption of the foregoing rules of practice are not required to file an application to enter the land at the time of the initiation of contest, but the successful contestant secures a preference right of entry under the second section of the act of May 14, 1880, 12 Stat., 140. (This regulation overrules the decision in Bundy *v.* Livingston, 1 L. D., rev. ed., 152.)

30. No land acquired under the provisions of the act of June 14, 1878, will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

31. Applicants to make timber-culture entries, and claimants and witnesses making final proof, must in all cases state their place of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if residence is in a city the street or number must be given.

32. Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with. (Circular approved July 12, 1887, 6 L. D., 2.)

DESERT LANDS.

The first section of the act of March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories" (Appendix No. 19), provides for the reclamation of such lands by "conducting water upon the same." The second section provides "that all lands, exclusive of timber lands and mineral lands, which will not, without artificial irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act," and the third section provides that "this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho,

Montana, Utah, Arizona, New Mexico, Wyoming, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office."

It is therefore prescribed as follows:

First. Lands bordering upon streams, lakes, or other natural bodies of water, or through or upon which there is any river, stream, arroyo, lake, pond, body of water, or living spring, are not subject to entry under the desert land law until the clearest proof of their desert character is furnished.

Second. Lands which produce native grasses sufficient in quantity, if unfed by grazing animals, to make an ordinary crop of hay in usual seasons are not desert lands.

Third. Lands which will produce an agricultural crop of any kind, in amount to make the cultivation reasonably remunerative, are not desert.

Fourth. Lands containing sufficient moisture to produce a natural growth of trees are not to be classed as desert lands.

1. The amount of land which may be entered by any one person under the desert land act can not exceed one section, or 640 acres, which must be in compact form, and no person can make more than one entry.

2. Desert land entries are not assignable, and the transfer of such entries, whether by deed, contract, or agreement, vitiates the entry. An entry made in the interest or for the benefit of any other person, firm, or corporation, or with intent that the title shall be conveyed to any other person, firm, or corporation, is illegal.

3. The price at which lands may be entered under the desert land act is the same as under the pre-emption law, viz, single minimum lands at $1.25 per acre, and double minimum lands at $2.50 per acre. (Section 2357, Rev. Stat., Appendix No. 1.)

4. A party desiring to avail himself of the privileges of the desert land act must file with the register and receiver of the proper district land office a declaration, under oath, setting forth that the applicant is a citizen of the United States or that he has declared his intention to become such. In the latter case a duly certified copy of his declaration of intention to become a citizen must be presented and filed. It must also be set up that the applicant has not previously exercised the right of entry under the provisions of this act, and that he intends to reclaim the tract of land applied for by conducting water thereon within three years from date of his declaration. The declaration must also contain a description of the land applied for, by legal subdivision if surveyed, or if unsurveyed as nearly as possible without a survey, by giving, with as much clearness and precision as possible, the locality of the tract with reference to the already established lines of survey, or to known and conspicuous landmarks, so as to admit of its being readily identified when the lines of survey come to be extended.

5. Attention is called to the terms of this declaration (Form 4—274), which are such as require a personal knowledge by the entrymen of lands intended to be entered. The required affidavit can not be made by an agent nor upon information and belief, and the register and receiver must reject all applications in which it does not appear that the entryman made the averments contained in the sworn declaration upon his own knowledge derived from a personal examination of the lands. The blanks in the declaration must be filled in with a full statement of the facts of his acquaintance with the land and how he knows its character as alleged. Said declaration must be corroborated by the affida-

vits of two reputable witnesses who are acquainted with the land and with the applicant, and who must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment (Form 4—074).

6. Applicants and witnesses must in all cases state their places of actual residence, their business or occupations, and their post-office addresses. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if a residence is in a city the street and number must be given.

7. The declaration and corroborating affidavits may be made before either the register or receiver of the land district in which the lands are situated, or before the judge or clerk of a court of record of the county in which the lands are situated, and if the lands are in an unorganized county then the affidavit may be made in an adjacent county. The depositions of applicant and witnesses in making final proof must be taken in the same manner; and the authority of any practice or regulation permitting original or final desert land affidavits to be executed before any other officers than those named above is hereby revoked. The affidavits of applicant and witnesses must in every instance either of original application or final proof be made at the same time and place and before the same officer.

8. When proof of the character of the land has been made as above required to the satisfaction of the district officers, the applicant will pay the receiver the sum of 25 cents per acre where the land is single minimum, and 50 cents per acre where the land is double minimum. The register will receive and file his declaration, and the register and receiver will jointly issue, in duplicate, a certificate (Form 4—199) acknowledging the receipt of the 25 or 50 cents per acre, as the case may be, and the filing of the declaration. One of these duplicates will be delivered to applicant; the other will be retained by the register and receiver with the declaration and proof. They will bear a number according to the order in which the certificate was issued. The register will keep a record of the certificates issued, showing the number, date, amount paid, name of applicant, and description of the land applied for in each case, and, in addition, he will note the same upon his plats and records as in cases of ordinary entry. At the end of each month he will, with his regular returns, forward to the General Land Office an abstract of the declarations filed and certificates issued under this act during the month, accompanying same with the declarations and proofs filed and the retained copy of certificate in each case. The receiver will also account for the money received under this act in the usual form.

9. Surveys of desert land claims can not be made in advance of the regular progress of the public surveys. After a township has been surveyed the claim must be adjusted to the lines of the survey.

10. Persons making desert land entries must acquire a clear right to the use of sufficient water for the purpose of irrigating the whole of the land, and of keeping it permanently irrigated. A person who makes a desert land entry before he has secured a water right does so at his own risk; and as one entry exhausts his right of entry, such right can not be restored or again exercised because of failure to obtain water to irrigate the land selected by him.

11. The source and volume of the water supply, how acquired and how maintained, the carrying capacity of the ditches, and the number and length of all ditches on each legal subdivision of the land must be specifically shown. Applicant and witnesses must each state in full

what has been done in the matter of reclamation and improvement, and by whom, and must each answer fully and of their own personal knowledge the questions propounded in the final proof depositions. They must state specifically whether they at any time saw the land effectually irrigated, for without knowledge thus derived the fact of reclamation remains a matter of conjecture. (Case of Charles H. Schick, 5 L. D., 151.)

12. The whole tract and each legal subdivision for which proof is offered must be actually irrigated. If there are some high points or uneven surfaces which are practically not susceptible of irrigation, the nature, extent, and area of such spots must be fully stated. In this connection, the right of the water used, the quantity of it, the manner of its distribution, and the permanence of the supply are all to be taken into consideration. (Case of George Ramsey, 5 L. D., 120.)

13. Before final proof shall hereafter be submitted by any person claiming to enter lands under the desert-land act, such person will be required to file a notice of intention to make such proof, which shall be published in the same manner as required in homestead and pre-emption cases.

14. Contests may be instituted against desert-land entries for illegality or fraud in the inception of the entry, or for failure to comply with the law after entry, or for any sufficient cause affecting the legality or validity of the claim. Contestants will be allowed a preference right of entry for thirty days after notice of the cancellation of the contested entry in the same manner as in homestead and pre-emption cases, and the register will give the same notice and be entitled to the same fee for notice as in other cases.

15. When relinquishments of desert-land entries are filed in the local land office, the entries will be canceled by the register and receiver in the same manner as in homestead, pre-emption, and timber culture cases, under the first section of the act of May 14, 1880. (21 Stat., 140; Appendix No. 7).

16. Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with. (Circular. Approved June 28, 1887; 5 L. D., 708).

NOTICE TO DELINQUENT CLAIMANTS.

In a number of cases persons who have initiated titles to public lands under the desert-land act of March 3, 1877, have allowed the limitation provided by the statute to expire without making the final proof of reclamation of the land and the final payment as required by that act; therefore, in all such cases as now exist or as may hereafter exist, the registers or receivers will notify the parties of their non-compliance with the law, and that ninety days from date of service of notice will be allowed to each of them within which to show cause why their claims should not be declared forfeited and their entries canceled.

At the expiration of that time the registers or receivers will report the reasons given, or in case of failure, report that fact, so that in either event proper action may be had by this office. But they will in no case allow the lands embraced in such claims to be re-entered until they shall have received from this office a formal notice that the original entries have been positively canceled.

A form of notice is appended, viz:

A——— B———, [*Place of residence, or that being unknown, address to the post-office nearest to the land.*]

SIR: You are hereby notified that the desert-land act of March 3, 1877, requires final proof of reclamation of the land and final payment to be made within three years from date of entry, and that in case of your entry No. ———, for ———, dated———, the time fixed by the statute has expired without the requisite proof and payment being made by you. You will, therefore, within ninety days from date of service of this notice, show cause before us why your claim should not be declared forfeited and your entry canceled for non-compliance with the requirements of the law, so that the case may be reported to the Commissioner of the General Land Office for the proper action.

——— ———, *Register.*

[Date.] ——— ———, *Receiver.*

TIMBER AND STONE LANDS.

The act of June 3, 1878 (20 Stat., 89; Appendix No. 18), for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory, limits the quantity of land which may lawfully be acquired under the act by any one person or association to not exceeding 160 acres.

2. The land must be valuable chiefly for timber (or stone) and unfit for cultivation if the timber were removed.

3. It must be unoffered, unreserved, unappropriated, and uninhabited, and without improvements (except for ditch or canal purposes), save such as were made by or belong to the applicant.

4. Lands containing valuable deposits of gold, silver, cinnabar, copper, or coal are not subject to entry under this act.

5. One entry or filing only can be allowed any person or association of persons. A married woman may be permitted to purchase under said act, provided the laws of the State or Territory in which the entry is made permit a married woman to purchase and hold real estate as a *feme sole;* but, in addition to the proofs already provided for, she shall make affidavit at the time of entry that she proposes to purchase said land with her separate money, in which her husband has no interest or claim; that said entry is made for her sole and separate use and benefit; that she has made no contract or agreement whereby any interest whatever therein will inure to the benefit of her husband or any other person, and that she has never made an entry under said act, or derived or had any interest whatever, directly or indirectly, in or from a former entry made by any person or association of persons.

6. A person applying to purchase a tract under the provisions of this act is required to make affidavit before the register or receiver that he has made no prior application under this act; that he is by birth or naturalization a citizen of the United States, or has declared his intention to become a citizen. If native born, parole evidence to that fact will be sufficient; if not native born, record evidence of the prescribed qualification must be furnished. The affidavit must designate by legal subdivisions the tract which the applicant desires to purchase, setting forth its character as above; stating that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes (if any exist), save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold,

silver, cinnabar, copper, or coal; that deponent does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title he may acquire from the Government of the United States shall inure in whole or in part to the benefit of any person except himself.

7. Every person swearing falsely to any such affidavit is guilty of perjury, and will be punished as provided by law for such offense. In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land, or of any right, title, or claim thereto, are absolutely null and void as against the United States.

8. The sworn statement before the register and receiver required as above (section 2 of the act) must be made upon the personal knowledge of applicant, except in the particulars in which the statute provides that the affidavit may be made upon information and belief.

9. The register or receiver will in every case read this affidavit to applicant, or cause it to be read to him in their presence, before he is sworn or his signature is attached thereto.

10. The published notice required by the third section of the act must state the time and place when, and name the officer before whom, the party intends to offer proof, which must be after the expiration of the sixty days of publication, and before ninety days from the date of the published notice. Where proof is not made before the expiration of said ninety days the register and receiver will cancel the filing upon their records and notify this office accordingly, as prescribed by instructions of circular of May 1, 1880. (Copp's Land Owner, vol. 7, p. 52.)

11. The evidence to be furnished to the satisfaction of the register and receiver at time of entry, as required by the third section of the act, must be taken before the register or receiver, and will consist of the testimony of claimant, corroborated by the testimony of two disinterested witnesses. The testimony will be reduced to writing by the register or receiver upon the blanks provided for the purpose, after verbally propounding the questions set forth in the printed forms. The accuracy of affiant's information and the bona fides of the entry must be tested by close and sufficient oral examination. The register and receiver will especially direct such examination to ascertain whether the entry is made in good faith for the appropriation of the land to the entryman's own use, and not for sale or speculation, and whether he has conveyed the land or his right thereto, or agreed to make any such conveyance, or whether he has directly or indirectly entered into any contract or agreement in any manner with any person or persons whomsoever by which the title that may be acquired by the entry shall inure, in whole or in part, to the benefit of any person or persons except himself. They will certify to the fact of such oral examination, its sufficiency, and their satisfaction therewith.

12. Attention is called to the instructions of this office of August 19, 1884, addressed to the register and receiver at Humboldt, Cal. (3 L. D., 84), in respect to scrutiny of applications and entries, the examination of parties and witnesses, and the duty of the local officers in accepting, rejecting, and reporting such applications and entries; and all registers and receivers will strictly follow and be governed by said instructions.

13. The entire proof must be taken at one and the same time, and payment must be made at the time of offering proof. Proofs will in no case be accepted in the absence of a tender of the money; and the register's certificate will in no case be given to the party or his attorney,

but must be handed directly to the receiver by the register; and no note will be made upon the plats or tract books until the receiver's receipt has been issued. The proof, certificate, and receipt must in all cases bear even date.

14. When an adverse claim, or any protest against accepting proof or allowing an entry, is filed before final certificate has been issued, the register and receiver will at once order a hearing, and will allow no entry until after their written determination upon such hearing has been rendered. They will report their final action in all protest and contest cases, and transmit the papers to this office.

15. After certificate has been issued, contest, applications, and protests will be submitted to this office as in other cases of contest after final entry.

16. Contests may be brought against timber and stone land applications or entries, in accordance with rule one of rules of practice, either by an adverse claimant or by any other person, and for any sufficient cause affecting the legality or validity of the filing, entry, or claim.

17. In case of an association of persons making application for an entry under this act, each of the persons must prove the requisite qualifications, and their names must appear in the sworn statement, as in case of an individual person. They must also unite in the regular application for entry, which will be made in their joint names as in other cases of joint cash entry. The forms prescribed for cases of applications by individual persons may be adapted for use in applications of this class, and the sworn statement as to the character of the land may be made by one member of the association upon his personal knowledge.

18. No person who has made an individual entry or application can thereafter make one as a member of an association, nor can any member of an association making an entry or application, be allowed thereafter to make an individual entry or application.

19. Applicants to make timber-land entries, and claimants and witnesses making final proof, must in all cases state their places of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if residence is in a city the street or number must be given.

A strict compliance with the foregoing regulations is required. (Circular approved July 16, 1887; 6 L. D., 114.)

SALINE LANDS.

Congress passed an act January 12, 1877 (19 Stat., 221; Appendix No. 20), providing for the sale of saline lands in certain States. (Morton *v.* Nebraska, 21 Wallace, 660.)

DETERMINATION OF THE CHARACTER OF THE LANDS.

Should *prima facie* evidence that certain tracts are saline in character, be filed with the register and receiver of the proper land district, they will designate a time for a hearing at their office, and give notice to all parties in interest, in order that they may have ample opportunity to be present with their witnesses. Such witnesses will be examined in regard to the saline deposits upon the given tracts, and whether the

same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The witnesses should be thoroughly examined as to the true character of the land in other respects; its agricultural capacities; what kind of crops, if any, have been raised thereon, or can be raised from land of such character; whether it contains any valuable deposit of mineral of any kind, or of coal. In short, the testimony should be as complete as possible; and in addition to the points indicated above, everything of importance bearing upon the character of the land should be elicited at the hearing.

The testimony taken at the hearing will be transmitted to the General Land Office by the register and receiver, with their opinion thereon. When the case comes before the General Land Office such a decision will be rendered in regard to the character of the land as the facts may warrant.

DISPOSAL OF SALINE LANDS.

Should the tracts be adjudged *saline* lands the register and receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash, at a price not less than $1.25 per acre.

In case said lands should not be sold when so offered, they will be subject to private sale for cash, at a price not less than $1.25 per acre, in the same manner as other public lands.

Should the tract in question be adjudged agricultural or mineral, it will be subject to disposal as such.

The provisions of this act do not apply to any lands within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California, or Nevada, none of which have had a grant of salines by act of Congress.

GENERAL RULES APPLICABLE TO DIFFERENT CLASSES OF ENTRIES.

1. Applicants to make entries, and claimants and witnesses making final proof, must in all cases state their place of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if residence is in a city the street or number must be given.

2. Where the residence of a party or witness is on surveyed land the subdivision, section, township, and range must be stated in every case.

3. Notice by registered letter directed to claimant's last-known post-office address is the prescribed means of giving legal notice to him of official action taken in respect to his entry, either before or after proof. (Circular approved October 28, 1886, 5 L. D., 204.) Claimants and entrymen should therefore give prompt notice to the register and receiver of any change of residence or post-office address.

PUBLICATION OF NOTICE OF FINAL PROOF.

4. Any claimant desiring to make final proof of having complied with the provisions of law in respect to residence, cultivation, or improvement must first file with the register of the proper land office a

written notice of his intention to do so, which notice must be transmitted by the register and receiver to this office, with the proof. The notice must describe the land claimed, and the claimant must give the names and residences of the witnesses by whom the necessary facts as to settlement, residence, cultivation, etc., are to be established. He must also state the day when, the place where, and the officer before whom, the proof is to be taken.

5. The filing of notice of intention to make proof must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the register.

6. Upon the filing of the notice by the applicant the register will publish a notice that such application has been made, once each week for a period of thirty days, in a newspaper which he shall designate, by an order written on said application, as published nearest the land described in the application, and he shall also post said notice in some conspicuous place in his office for the same period. If published in a weekly paper a compliance with the law will require the notice to be published weekly six times, as there must be thirty days between the first and last publications.

7. The notice to be given by the register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead or pre-emption; a description of the land, and the names and residences of the witnesses as stated in the application; also the day when, the place where, and the officer before whom, the proof is to be taken. (See Form 4—347.)

8. To save expense, the register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication, in a newspaper published nearest the land (as per Form 4—347).

9. Publishers should cause each proof notice to be carefully read by copy, and should send at least one copy of the paper containing the notice to the party in interest. This course will avoid errors or secure their correction in proper time.

10. Proof of publication will be the affidavit of the publisher or foreman of the newspaper employed that the notice (a copy of which notice must be annexed to the affidavit) was published in said newspaper once a week (if a weekly paper) for six successive weeks, or for thirty days in a daily paper, as the case may be. Such affidavit must show that the notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement. Affidavits of publication not in conformity with these requirements will be rejected by the register and receiver.

11. Proof of posting notice in the district land office will be the certificate of the register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days. (Form 4—227.)

12. The proof of the publication and posting of the notice must be filed and preserved by the register, to be forwarded to the General Land Office with the final papers when issued.

13. Proof should in every case be made at the time and place advertised, and before the officer named in the notice. On the day advertised, the officer named in the notice should call the case for hearing, and should the claimant fail to appear the officer should continue the case until the next day, and on that day or on any succeeding day, should

the claimant fail to appear, proceed in like manner until the expiration of ten days from the day advertised, after which the proof, if presented, should not be received. Proper notice should be given of the continuances made, in the most effective way the circumstances admit of, to any parties interested. Parties proposing to cross-examine claimant's witnesses or submit rebutting testimony will be allowed to do so on the day advertised, in case of the appearance of the claimant and his proof being made on that day. In case of his non-appearance, protests or affidavits of contest may be filed, and if a sufficient ground of objection is set forth therein the protestant, adverse claimant, or contestant may appear at any subsequent day to which the case may be adjourned, with the same rights of cross-examination and of submitting rebutting testimony as if the appearance had been made on the day advertised, should he so elect, and if he should not do so, the register and receiver of the proper district land office will take measures to secure the protestant, contestant, or adverse claimant an opportunity to be heard, on the grounds of objection presented, after due notice to all parties according to rules of practice before allowing final entry to be made; and the appearance of the protestant or adverse claimant, or filing of protest or contest affidavit, on the day advertised, or on any day to which the case may be continued as above, will suffice to protect their rights in the premises as fully as though both parties had appeared and the proof been taken on the day advertised. The proceedings had should be duly docketed, and be made to appear by proper entries on the proof papers, to which any protest or contest affidavit filed should be attached, by the officer named in the notice. The witnesses to the proofs must be two of the persons named as witnesses in the notices. Other persons can not be substituted as witnesses without re-advertisement.

DUTIES OF ATTESTING OFFICERS.

14. Where proof is made before the judge or clerk of court (as the case may be), the affidavits and testimony must be duly authenticated by the seal of the court and transmitted to the register and receiver, together with the fees and charges allowed by law to them. The authorized fees are the regular fees and commissions, and, in addition thereto, in homestead "five-year" proof, under act of March 3, 1877 (Appendix, No. 3), the legal fee for "examining and approving" the testimony, which is 15 cents (and in the Pacific States and Territories 22½ cents) for each one hundred written words. Printed words are not to be counted.

15. When the land is within an unorganized county the fact that the county in which the land lies is unorganized and that the county in which the proof is made is adjacent thereto must be certified by the attesting officer.

16. Attesting officers must sign in their true official capacity. If proof is taken by a judge in his capacity as clerk of his own court he should sign as "*ex-officio* clerk."

17. Registers and receivers, and judges and clerks of courts taking proofs, are enjoined to use the utmost strictness in the examination of parties and witnesses, and to obtain full, specific, and unevasive answers to all the questions propounded in the new forms, and all necessary oral cross-examinations will be made by attesting officers to further attest the good faith of claimants and the reliability of the testimony of claimants and witnesses. Officers will certify to their oral cross-examinations.

18. Registers and receivers will carefully examine all proofs transmitted to them by other officers, and will not issue certificates, nor

place entries on record, nor transmit the proofs to this office until the same have been thus examined. Defective, insufficient, or unsatisfactory proofs will be rejected and new proof required.

19. Proofs taken by other officers than registers and receivers must be immediately transmitted to the register and receiver and the money paid to the latter. When any interval of time, other than that required for immediate and expeditious transmittal, elapses between date of proof and date of its receipt, with the money, at the district land office, a new affidavit, duly corroborated, showing non-alienation and continued residence, covering date of receipt of proof and payment by the register and receiver will be required before certificate is issued or the entry placed of record.

Proof without payment must in no case be accepted or received by registers and receivers. If, however, this should occur by inadvertence in any case, additional evidence as above should be at once required of the claimant before allowing entry.

All discrepancies between date of proof and date of register's certificate and receiver's receipt must be accounted for by certificate from the register and receiver attached to each case.

20. As settlers on unsurveyed lands are allowed three months after the filing of the township plat of survey within which to put their claims on record, no final proof on homestead or pre-emption entries should be permitted until after the expiration of said three months.

CITIZENSHIP AND NATURALIZATION.

21. Parties should in all cases of application to make entry and in final proof state distinctly whether they are native-born or naturalized citizens. If naturalized, evidence of naturalization should be filed with the original entry application. If not naturalized, evidence of declaration of intention should be filed at the time the first entry or application is made.

The certification of naturalization papers or other court records should be received only when made under the hand and seal of the clerk of the court in which such papers appear of record, but where a judicial record is shown to have existed and is now lost or destroyed, proof of the same may be made by secondary evidence, in accordance with the rules of evidence governing such proof.

CONTIGUITY OF LANDS.

22. Entries of public lands must be made by legal subdivisions according to the public surveys, and if different tracts are taken to make up the full quantity allowed or intended to be entered in pre-emption, homestead, timber culture, and other classes of entries, the tracts must be contiguous to each other, so as to form one body of land.

LANDS IN THE POSSESSION OF INDIAN OCCUPANTS.

23. No entries will be allowed upon lands in the possession, occupation, and use of Indian inhabitants, or covered by their homes and improvements; and registers and receivers are required to exercise every care and precaution to prevent the inadvertent allowance of any such entries. It is presumed that they know or can ascertain the localities of Indian possession and occupancy in their respective districts, and it is their duty to do so, and to avail themselves of all information furnished by officers of the Indian service. (Circular October 26, 1887.)

24.—INSTRUCTIONS TO REGISTERS AND RECEIVERS FOR TAKING AND PASSING ON FINAL PROOF.

Rule 1.—Premature Final Proof.

Reject all final proofs prematurely made, viz:

In pre-emptions and commuted homesteads—

Before the expiration of six months from date of establishing a bona fide residence.

In final homesteads—

Before the expiration of five years from date of entry, except—

1. Where residence is allowed before entry. (Act June 14, 1878; act May 14, 1880.)
2. Where credit is allowed for military or naval service. (Secs. 2304, 2305, 2306, and 2291, Rev. Stat.)

In timber cultures—

1. Before the expiration of eight years from date of entry.
2. Before the expiration of eight years from the date when the total number of trees, seeds, and cuttings required by law are planted. (Circular July 12, 1887, sec. 23.)

In timber and stone entries—

Before the expiration of sixty days' publication, as required by law (ten weekly insertions). (20 Stat., 89, sec. 3; 2 L. D., 709; 4 L. D., 282.)

In all cases—

Before the expiration of the time of publication and the day fixed. (See Rule 3.)

Rule 2.—Lapsed Final Proof.

When final proof is taken (or offered) after lapse of statutory period, viz:

In final homesteads—

After seven years from date of entry.

In timber cultures—

After thirteen years from date of entry.

In desert entries—

After three years from date of entry.

Require affidavit of party *making proof* of real cause of delay, withhold certificate, and forward all papers to this office for action.

Note.—In pre-emption and commuted homesteads the above rule does not apply.

Rule 3.—Published Notice of Final Proof.

(The register alone is responsible for the correctness of published notice. Act March 3, 1879.)

Thirty days' publication of notice (six weekly insertions) of intention to make proof is required in—

Pre-emptions, commuted homesteads, and final homesteads. (Act March 3, 1879; circular March 20, 1883.)

Timber cultures. (Circular July 12, 1887, sec. 23.)

Desert entries. (Circular June 28, 1887, sec. 13.)

Town-sites. (Circular July 9, 1886, sec. 12.)

Sixty days in timber and stone entries (ten weekly insertions). (Circular July 16, 1887, sec. 10.)

The notice must contain—

(*a*) Correct description of land sought to be entered, and kind of entry to be made. (Act March 3, 1879.)

(*b*) Correct names of witnesses and post-office address. (Act March 3, 1879.)

(*c*) The *exact* day (not a holiday) when, and

(*d*) The exact place *where* proof is to be taken.

(*e*) The officer's name and official designation who is to take proof.

(*c*) (*d*) (*e*) Jacob Semer case, 6 L. D., 345; Lent case, 6 L. D., 110; Sherlock case, 6 L. D., 155.

Note.—(*c*) (*d*) (*e*) must be unambiguous and not alternative, as in the Jacob Semer case (6 L. D., 345), viz, "before a judge or clerk of court of record."

Note 2.—All proof must be taken before the same officer, provided pending cases and those wherein notice of intention to submit proof has been published under a different practice will not be affected by this requirement.

RULE 4.—OFFICERS AUTHORIZED TO TAKE FINAL PROOF.

In pre-emptions and commuted homesteads—
Register or receiver.
Clerk of county court.
Clerk of court of record. (21 Stat., 169; circular, March 30, 1886.)
In timber culture and desert entries—
Register or receiver.
Judge or clerk of court of record. (Timber culture circular, June 12, 1887, sec. 24; desert circular, June 28, 1887, sec. 7.)
In final homesteads—
Register or receiver.
Judge of court of record.
Clerk of court of record only when judge is absent. This fact must be certified by clerk. (Act March 3, 1877.)
In timber and stone entries and town-sites—
Register or receiver alone can take the proof. (Timber and stone circular, July 16, 1887, sec. 11; Rev. Stats., 2387; town-site circular. July 9, 1886.)

NOTE.—Judges and notaries public *can not* take pre-emption and commuted homestead proof, except probate judges, who are *ex officio* their own clerks, and so certify. (Circular, October 27, 1884; 3 L. D., 154; circular, March 30, 1886.)

Judges, clerks, and notaries can not take proof in timber and stone entries.

Clerks can not take final homestead proof unless judge is absent and they so certify.

RULE 5.

Registers and receivers will approve no case, neither accept payment nor issue final certificate and receipt thereon, until the foregoing requirements are complied with, provided in exceptional cases of hardship, when non-compliance is no fault of claimant and his good faith appears, and no one protests against the entry, you will withhold certificate and receipt and forward papers and explanatory affidavits to this office by special letter for instructions.

In every case of final entry allowed the register and receiver will fill up and forward, with their returns therefor, to the General Land Office, a brief special report, to be filled out on a printed card, according to prescribed forms, of which blanks will be furnished them for such use, said report to be placed on the outside of final entry papers in the form of a wrapper.

The forms of said reports are as follows:

PRE-EMPTIONS AND COMMUTED HOMESTEADS.

REGISTER AND RECEIVER'S REPORT.

———Entry No. — District ——— ———.

(1) Was proof prematurely made?—Ans. ———. (See Instructions 1.)
(2) State number weekly insertions of published notice ——.—Ans. ———.
Was notice definite as to time, place, and officer to take the proof?—Ans. ———.
Was proof taken—
(*a*) By officer advertised?—Ans. ———.
(*b*) On day advertised?—Ans. ———.
(*c*) At place advertised?—Ans. ———.
Was land properly described in published notice?—Ans. ———.
Were names of witnesses properly published?—Ans. ———. (See Instructions 3.)
(3) Was officer legally qualified to take the proof?—Ans. ———. (See Instructions 4.)
(4) Was all the proof taken before same officer?—Ans. ———. (See Circular March 30, 1886.)
(5) Has he properly signed and attested the proof papers?—Ans. ———.
(6) Have you signed all necessary papers?—Ans. ———.
(7) Are names of claimant and witnesses properly signed to all the papers?—Ans. ——.
(8) Do they agree with published notice?—Ans. ———.
(9) Have you compared description and names in the original proof and final entry papers and found them correct?—Ans. ———.

(10) Are proof of publication and posting of notice correct?—Ans. ———. (No interlineations or erasures of published notice will be permitted. See Fernandez, 6 L. D., 379.)
(11) Are any papers lost, not dated, not signed or sealed, if necessary?—Ans. ———.
(12) Was any witness substituted?—Ans: ———.
(13) Are all absences fully explained?—Ans. ———.
(14) If claimant naturalized, are original papers furnished?—Ans. ———.
If not, did officer taking proof certify a copy of original papers (not a copy of a copy)?—Ans. ———.

NOTE.—If right is based on military service, forward evidence of same.

(15) If proof taken by register and receiver, did certificate issue same date of proof and payment?—Ans. ———.
(16) If not, did you apply Rule 8, Circular January 2, 1889, printed below?—Ans. ———. (See subdivision 19, "Duties of Attesting Officers," p. 45.)
(Rules 8 and 9 apply only to Pre-emption and Commuted Homestead proof.)
(17) If proof not taken before register and receiver, did certificate issue within fifteen days thereafter?—Ans. ———. (General Land Office Regulation.)
(18) If not, did you apply Rule 9, printed below?—Ans. ———. (See subdivision 19, "Duties of Attesting Officers," p. 45.)
(Rules 8 and 9 apply only to pre-emption and commuted homestead proof.)
(19) Have you any doubt of claimant's having complied in good faith with the law?—Ans. ———.
(20) Have you any reliable information outside of the record which casts suspicion on this entry?—Ans. ———.

CERTIFICATE.

We, the undersigned register and receiver, hereby certify that the foregoing report was made after careful examination, and that the same is correct.

——— ———, *Register.*
——— ———, *Receiver.*

——— ——, 18—.

DEPARTMENT OF THE INTERIOR.
GENERAL LAND OFFICE,
Washington, D. C., January 2, 1889.

Rule VIII and Rule XI of the circular of February 19, 1887, approved February 21, 1887, are hereby modified to read as follows, viz:

VIII. When proof is made before the register and receiver, and the final certificate does not bear the date of the proof, require of the register and receiver an explanation thereof, and if the delay was caused by a failure to tender the money or other consideration at the time of making the proof, require additional evidence to show that the claimant had not, at the date of the certificate, transferred the land, and that he still continued to reside thereon, which evidence may consist of the claimant's affidavit corroborated by the affidavits of witnesses, taken before some officer authorized to administer oaths.

IX. When proof is made before any other officer than the register or receiver, allow a reasonable time for a prompt transmission of the papers to the district land office, and if any longer interval is shown between date of proof and date of certificate (if proof is otherwise sufficient) require of the register and receiver an explanation thereof, and if such delay was caused by the fault of the claimant, require the same additional evidence as prescribed under Rule VIII.

S. M. STOCKSLAGER,
Commissioner.

Approved:

WM. F. VILAS,
Secretary.

TIMBER AND STONE.

REGISTER AND RECEIVER'S REPORT.

F. C. ———. District ——— ———.

(1) Was proof made within ninety days from date of published notice?—Ans. ———. (See T. & S. Circular, July 16, 1887, sec. 10.)
(2) Were there ten consecutive weekly insertions of published notice before proof?—Ans. ———.
(3) Was notice definite as to time, place, and officer to take the proof?—Ans. ———.

(4) Was land properly described in published notice?—Ans. ———.
(5) Was proof taken—
(*a*) By register and receiver as advertised?—Ans. ———.
(*b*) On day advertised.—Ans. ———.
(6) Was payment made at the time proof was offered?—Ans. ———.
(7) Do proof, receipt, and certificate bear even date?—Ans. ———.
(8) Are all questions in proof satisfactorily answered by claimant and witnesses?—Ans. ———.
(9) Have they properly signed all necessary papers?—Ans. ———.
(10) Have you signed and filled out all necessary papers?—Ans. ———.
(11) Have you compared names and descriptions in sworn statement, published notice, final proof, and entry papers and found them correct?—Ans. ———.
(12) Are proof of publication and posting of notice correct?—Ans. ———. (No interlineation or erasures of published notice will be permitted. See Fernandez, 6 L. D., 379.)
(13) If claimant is a married woman, have you required the proper affidavits?—Ans. ———. (See T. & S. Circular, July 16, 1887, sec. 5.)
(14) If claimant naturalized, have you the original or certified a copy of original papers (not a copy of a copy)?—Ans. ———.
(15) Are any papers lost, not dated, not signed, or sealed, if necessary?—Ans ———.
(16) Do all the papers clearly show this to be timber or stone land within the meaning of the statutes?—Ans. ———.
(17) Have you any information which leads you to believe the contrary?—Ans. ———.
(18) Have you any personal or official information, outside of the proof papers, raising doubt or suspicion in your mind as to claimant's good faith in acquiring this land for his own use and not as an agent for the benefit of others?—Ans. ———. (See Instructions, August 19, 1884, 3 L. D., 84.)

We, the undersigned register and receiver, hereby certify that the foregoing report was made after careful examination, and that the same is correct.

———

——— ———, *Register.*
——— ———, *Receiver.*

——— ——, 188–.

FINAL HOMESTEADS.

Register and Receiver's Report.

H. E. ——— F. C. ———. District ——— ———.

(1) Was proof prematurely made?—Ans. ———. (See Instructions 1.)
(2) Was proof made after seven years from date of entry?—Ans. ———.
If so, did you apply Instructions 2?
(3) State number of weekly insertions of published notice—Ans. ———.
Was notice definite as to time, place, and officer to take the proof?—Ans. ———.
Was proof taken—
(*a*) By officer advertised?—Ans. ———.
(*b*) On day advertised?—Ans. ———.
(*c*) At place advertised?—Ans. ———.
Was land properly described in published notice?—Ans. ———.
Were names of witnesses properly published?—Ans. ———. (See Instructions 3.)
(4) Was officer legally qualified to take the proof?—Ans. ———. (See Instructions 4.)
(5) Was all the proof taken before same officer?—Ans. ———.
(6) Has he properly signed and attested the proof papers?—Ans. ———.
(7) Have you signed all necessary papers?—Ans. ———.
(8) Are names of claimant and witnesses properly signed to all the papers?—Ans. ———.
(9) Do they agree with published notice?—Ans. ———.
(10) Have you compared description and names in the original proof and final entry papers and found them correct?—Ans. ———.
(11) Are proof of publication and posting of notice correct?—Ans. ———. (No interlineations or erasures of published notice will be permitted. See Fernandez, 6 L. D., 379.)
(12) Are any papers lost, not dated, not signed or sealed, if necessary?—Ans. ———.
(13) Was any witness substituted?—Ans. ———.
(14) Are all absences fully explained?—Ans. ———.

(15) If claimant fully naturalized, are original papers furnished?—Ans. ———.
If not, did officer taking proof certify a copy of original papers (not a copy of a copy)?—Ans. ———.
(16) Was residence established within six months from date of entry?—Ans. ———.
If not, require reason for failure, and if sufficient excuse is given issue certificate as in other cases. (Nilson *v.* Saint P., M. and M. Ry., 6. L. D., 567.)
(17) Have you any doubt of claimant's having complied in good faith with the law?—Ans. ———.
(18) Have you any reliable information, outside of the record, which casts suspicion on this entry?—Ans. ———.

We, the undersigned register and receiver, hereby certify that the foregoing report was made after careful examination, and that the same is correct.

——— ———, *Register.*
——— ———, *Receiver.*

——, ——, 188–.

TIMBER CULTURE.

Register and Receiver's Report.

F. C. ———. District ——— ———.

(1) Was the proof prematurely made?—Ans. ———. (See Instructions 1.)
(2) Was it made after thirteen years from date of entry?—Ans. ———. (See Instructions 2.)
(3) Does entry form a compact body of 160 acres in one section?—Ans. ———.
(4) State number of weekly insertions of published notice.—Ans.——.
Was notice definite as to time, place, and officer to take the proof?—Ans. ———.
Was proof taken—
(*a*) By officer advertised?—Ans. ——.
(*b*) On day advertised?—Ans. ———.
(*c*) At place advertised?—Ans. ———.
Was land properly described in published notice?—Ans. ———. (See Instructions 3.)
(5) Was officer legally qualified to take the proof?—Ans. ———. (See Instructions 4.)
(6) Was all the proof taken before same officer?—Ans. ———.
(7) Has he properly signed and attested the proof papers?—Ans. ———.
(8) Have you filled out and signed all necessary papers?—Ans. ———.
(9) Are names of claimant and witnesses properly signed to all the papers?—Ans. ———.
(10) Do they agree with published notice?—Ans. ———.
(11) Have you compared descriptions and names in the application, proof, and final entry papers and found them correct?—Ans. ———.
(12) Are proof of publication and posting of notice correct?—Ans. ———. (No interlineation or erasures of published notice will be permitted. See Fernandez, 6 L. D., 379.)
(13) Are any papers lost, not dated, not signed or sealed, if necessary?—Ans. ———.
(14) Are original and non-mineral affidavits made by claimant individually and on personal knowledge correct?—Ans. ———.
(15) If claimant naturalized, have you the original or certified copy of original papers (not a copy of a copy)?—Ans. ———.
(16) Have you any doubt—
(*a*) That this land is subject to timber-culture entry under the law?
(*b*) That claimant has fully complied with the law as to the proper planting, cultivation, and condition of the required number of trees to date of this proof?—Ans. ———.

We, the undersigned register and receiver, hereby certify that the foregoing report was made after careful examination, and that the same is correct.

——— ———, *Register.*
——— ———, *Receiver.*

——— ——, 188–.

DESERT LAND.

Register and Receiver's Report.

F. C. ———. District ——— ———.

(1) Was the final proof made after the expiration of three years from date of entry?—Ans. ———.
If so, did you apply Instructions 2?—Ans. ———.
(2) State number of weekly insertions of published notice?—Ans. ———.
(3) Was notice definite as to time, place, and officer to take the proof?—Ans. ———.
Was proof taken—
(*a*) By officer advertised?—Ans. ———.
(*b*) On day advertised?—Ans. ———.
(*c*) At place advertised?—Ans. ———.
Was land properly described in published notice?—Ans. ———.
(4) Was land compact according to departmental construction?—Ans. ———. (See 5 L. D., 429.)
(5) Was officer legally qualified to take the proof?—Ans. ———.
(6) Was all the final proof taken by same officer?—Ans. ———.
(7) Has he properly signed and attested all the proof papers?—Ans. ———.
(8) Have you signed and properly filled out all necessary papers?—Ans. ———.
(9) Are names of claimant and witnesses properly signed to all the papers?—Ans. ———.
(10) Have you compared description and names in the declaratory statement, proof, and entry papers and found them correct?—Ans. ———.
(11) Are proof of publication and posting of notice correct?—Ans. ———. (No interlineations or erasures of published notice will be permitted. See Fernandez, 6 L. D., 379).
(12) Are any papers lost, not dated, not signed or sealed, if necessary?—Ans. ———.
(13) If claimant naturalized, have you the original or certified copy of the original papers (not a copy of a copy)?—Ans. ———.
(14) Have you any doubt—
(*a*) Of desert character of land?—Ans. ———.
(*b*) Of the proper irrigation of each legal subdivision?—Ans. ———.
(*c*) Of validity of water right?—Ans———.
(*d*) Sufficiency and permanency of water supply?—Ans. ———.
(15) Have you any information, outside of the papers, casting doubt or suspicion on this entry?—Ans. ———.

We, the undersigned register and receiver, do hereby certify that the foregoing eport was made after careful examination, and that the same is correct.

——— ———, *Register.*
——— ———, *Receiver.*

———, ——, 188-.

AMENDMENTS OF APPLICATIONS AND ENTRIES.

Applications to amend filings or entries must be filed with the register and receiver, and be by them transmitted for the consideration of the Commissioner of the General Land Office. Registers and receivers will not change an entry or filing so as to describe another tract, or change a date after the same has been recorded.

A party who alleges a mistake in the description of his filing or entry and desires to amend or change the same so as to describe another tract may do so in the manner herein prescribed.

He must file with the register and receiver a statement under oath, corroborated by at least two witnesses, or sustained by strong corroborating facts and circumstances, showing the nature of the alleged mistake and how the same occurred, and that every reasonable precaution and exertion had been made to avoid the error, and that he has not

sold, assigned, transferred, or relinquished his alleged erroneous filing or entry, or his claim to the land described therein, nor agreed to do so.

He must show that the error did not result from want of a personal examination of the land by himself before making his filing or entry, and must state the date when he first examined the land he desired to enter and the date he commenced his settlement or improvements thereon, if any, and the character, extent, and value of any such improvements, and how he learned that the alleged error in description had been made.

The register and receiver must investigate the facts and transmit the evidence submitted to them in each case to the Commissioner of the General Land Office, together with their written opinion both as to the existence of the mistake and the credibility of each person testifying thereto and their recommendation in the matter.

In case of an application for an entry being returned to the district land-office for amendment, the register and receiver should write across the face thereof: "Amended to [here inserting the proper description] as per Commissioner's letter of [here giving initial and date]." This notation must be signed by the entryman, after which the register and receiver will attest the same over their signatures and return the application to this office (13 C. L. O., 205).

RELINQUISHMENTS.

The first section of the act of May 14, 1880 (Appendix No. 7), provides that when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

The register will note on each relinquishment, over his signature, the day and hour of its receipt, and will write the words "canceled by relinquishment" (giving date) opposite the record of the entry in the tract book, the register of entries, and the register of receipts, and will draw a line over the number of the entry on the township plat.

On Monday of each week the register and receiver are directed to transmit to this office all the relinquishments accepted by them the preceding week, classifying the same in their letter of transmittal by class of entry so transmitted.

Relinquishments run to the United States alone, and no person obtains any right to the land by the mere purchase of a relinquishment of a filing or entry.

Entries and filings made for the purpose of holding the land for speculation and the sale of relinquishments are illegal and fraudulent, and every effort in the power of the Government will be exerted to prevent such frauds and to detect and punish the perpetrators.

Purchasers of relinquishments of fraudulent filings or entries should understand that they purchase at their own risk so far as the United States is concerned, and must seek their own remedies under local laws against those who, by imposing such relinquishments upon them, have obtained their money without valuable consideration.

CONTESTS.

Any person may contest a filing, entry, location, or selection made under any law of the United States, for any sufficient cause affecting the legality or validity of the same.

Applications to contest must be filed with the register and receiver.

An affidavit is required in each case setting forth the facts which constitute the grounds of contest. This affidavit should be corroborated by the affidavits of one or more witnesses in cases where an entry has been allowed and remains of record. Contest affidavits may be made before any officer authorized to administer oaths.

A person who contests and secures the cancellation of a pre-emption, homestead, timber-culture, or desert-land entry, has a preference right for thirty days from notice of the cancellation in which to enter the land.

Where an entry exists, that is *prima facie* valid and an appropriation of the land, no application to enter will be received for another entry of the land until the existing entry is vacated by regular proceedings, except in cases of contests under the third section of the timber-culture act of June 14, 1878. Where a contest with application to enter is admitted under said section, no other entry will be allowed, even after the cancellation of the contested entry, until after the contestant's application is disposed of. (Pfaff *v.* Williams *et al.*, 4 L. D., 455.)

In such a case on cancellation of the contested entry, should it be canceled, the contestant will be notified thereof and allowed thirty days from receipt of notice in which to perfect his application into an entry, with the information that in case he fails to do so within such time his application will be treated as abandoned, and thereafter another entry may be allowed by the first legal applicant.

In case of contests not coming under said third section the land becomes subject to entry again immediately after the cancellation of the contested entry by the first legal applicant, subject, however, to the preference right of the successful contestant for thirty days after notice under second section, act of May 14, 1880, and on the contestant's making an entry, regular in all respects, in pursuance of a preference right to which he is entitled under said section, any entry allowed by a third party in the meantime will be subject to cancellation for conflict therewith, unless the intervening applicant takes issue with the contestant as to the right to make entry as the result of the contest, when the matter will be suspended until the issue can be determined by hearing or otherwise.

When, pending a contest, a relinquishment of his entry is filed by the defendant, the register and receiver should accept the relinquishment as the result of the contest and canceling the entry thereupon, give proper notice to the contestant, and proceed, as regards the disposing of the land, as indicated in the above, according to the nature of the case, whether brought under the third section act of June 14, 1878, with application to enter, or otherwise, but inquiry may be properly entertained on the allegation that the relinquishment was in fact an independent transaction and not the result of the contest, independently of the time when the relinquishment is filed, being before or after the hearing.

Contests of homestead entries on ground of abandonment can not be brought until after the expiration of six months from date of entry.

Contests of timber-culture entries on ground of non-compliance with law can not be brought until after the expiration of the year in which it is alleged the failure occurred.

Contests of desert-land entries on the ground of failure to irrigate and reclaim the land can not be brought until after three years from date of entry.

Contests of homestead, timber-culture, and desert-land entries for other causes than abandonment or failure to comply with the law, can be brought at any time after entry and before patent, without reference to the time allowed for compliance with law.

Contests against other filings or entries for causes affecting the legality or validity of the same, or against locations or selections of any character, can be brought at any time after the filing, entry, location, or selection has been made, and before patent has issued.

On a contest being brought, the officers will set apart a day for hearing, giving all the parties in interest due notice of the time and place of trial.

In cases of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, the act of Congress of June 3, 1878, directs that the same shall "be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land."

The proceedings in such cases are governed by the rules of practice approved August 13, 1885, which are given in a separate circular.

SPECULATIVE AND COLLUSIVE CONTESTS.

No preference right of entry can be acquired through a contest which is shown by the evidence not to have been prosecuted in good faith. (Dayton *v.* Dayton, 6 L. D., 164.)

LAND PATENTS.

Patents for lands entered or located under general laws can be issued only in the name of the party making the entry or location, or, in case of his death before making proof, to the statutory successor making the proof, as provided by law.

The recitals and description of land in patents will in all cases follow the register's certificate of entry or location, as prescribed by law.

When patents are ready for delivery they will in all cases be transmitted to the local office at which the location or entry was made for delivery to the party entitled thereto, unless proper authority for the delivery otherwise shall have previously been filed in the General Land Office.

The duplicate receipt or certificate, as the case may be, should be surrendered, or its loss accounted for by sufficient affidavit prior to delivery of the patent.

STATES IN WHICH THERE ARE NO DISTRICT LAND OFFICES.

Any vacant tracts of public land in Ohio, Indiana, and Illinois, States in which there are no land offices, may, under the act of March 3, 1877 (19 Stat., 315), "be entered at the General Land Office, subject to the provisions of law touching the entry of public lands, and the necessary

proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record, and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury." In carrying into effect the provisions of this act the following method will be observed:

A clerk has been designated by the Commissioner to receive and act upon the applications which may be offered for such entries, and to have charge of the correspondence connected therewith. All moneys received go into the charge of the receiving clerk (designated under section 461 of the Revised Statutes, Appendix No. 1), and any moneys found to belong to the United States on the cases being finally passed upon are turned over to the Treasury according to law.

Applications will be immediately entered in a preliminary abstract for each State in the order in which they are received; will be carefully examined in connection with the plats, files, and records, and admitted or rejected, according to the law and instructions governing the case. From such preliminary abstracts the admitted applications will be carried to a regular monthly abstract, and the proper certificates and receipts will be issued by the Commissioner, acting as *ex-officio* register and receiver. The entries thus admitted will be properly posted in the tract books, and the papers therefor placed on file, for such further action as may be necessary. These entries will be numbered consecutively in continuation of the series entered upon at the respective district offices. The applicants will be promptly advised of the result of the examination, and, where the desired entries are admitted, will be furnished with the appropriate paper, to be held as evidence of title until the delivery of the patents.

In case of conflicting applications, that which is first received will be first acted upon, as above directed, and will be considered as giving the applicant the legal right to the tract applied for, if unexceptionable in other respects.

REJECTED APPLICATIONS TO MAKE ENTRY.

Where an application to file for or enter public land is refused by the register and receiver they must notify the applicant of the rejection of the application and the cause thereof, and that he is allowed thirty days for appeal to the Commissioner of the General Land Office. Rejected applications will be retained by the register and receiver on the files of their office. (13 Copp's L. O., 243.)

When notice of rejection is sent through the mails, five days will be allowed for the transmission of the notice, and five days for the transmission of an appeal, making forty days in all from the issue of notice in which to place the appeal on file in the district land office.

APPEALS.

Appeals must be in writing and be filed in the district land office. An appeal should state as plainly as possible the ground of objection to the decision appealed from. The register and receiver will at once transmit the appeal to the General Land Office. No appeal from the decision of the local land office will be received at the General Land

Office unless forwarded through the local officers in the manner herein prescribed.

REPORT OF REGISTER AND RECEIVER.

The appeal should be accompanied by a report upon the case by the register and receiver. This report should recite the proceedings had, to wit: The application and rejection, with the reasons therefor; the status of the tract involved, as shown by the records of the office, together with a reference to all entries, filings, annotations, memoranda, and correspondence shown by such record relating thereto, so as to direct the attention of the Commissioner to all the material facts and issues necessary to a proper determination of the questions presented.

The report should be forwarded at once upon the filing of the appeal, except in contested cases after regular hearing, when, unless all parties request its earlier transmission, it should not be made until the expiration of the thirty days included in the notice, in order that all parties may have full opportunity to examine the record and prepare their arguments upon the questions at issue.

All documents once received must be kept on file with the cases, and no papers will be allowed under any circumstances to be removed from such files or taken from the custody of the register and receiver; but access to the same, under proper rules, so as not to interfere with necessary public business, should be permitted to the parties in interest, under the supervision of those officers.

ACTION OF GENERAL LAND OFFICE.

Of the sufficiency of such appeal the General Land Office will be the judge, and will dismiss from further notice any case wherein the appeal is based upon frivolous grounds, or where the proper formalities are wanting, unless, either in the record of the case or upon the books of this office, some sufficient cause shall be found for further consideration under the general power of supervision vested in the Commissioner by law.

APPEAL FROM THE GENERAL LAND OFFICE.

Upon any question relating to the disposal of the public lands, appea from the decision of the Commissioner of the General Land Office will lie to the Secretary of the Interior (Rev. Stat., sections 441, 2273; Appendix No. 1), except in cases of interlocutory orders and decisions and orders for hearing, or other matters resting in the sound discretion of the Commissioner. These cases constitute matters of exception, which should be noted, and they will be considered by the Secretary on review.

The appeal is required to be made in writing, fairly and specifically stating the points of exception to the decision appealed from, and must be filed either with the register and receiver for transmission, or with the Commissioner, within sixty days from receipt, by the party or his attorney, of the notice of the decision. When notice is given through the mail by the register and receiver, five days are allowed for the transmission of the letter from the local land office, and five days for the return of the appeal through the same channel, making a total of seventy days from date of mailing.

After appeal is filed, the fact of its receipt and pendency will be promptly communicated to the district office and to the parties, and thirty days from service of such notice will be allowed for the filing of argument on the points involved in the controversy. At the expiration

of the time prescribed the papers and record will be forwarded to the Secretary of the Interior. All arguments shall be filed with the Commissioner within the time specified in the notice in order that they may be referred to and considered in transmitting the case to the Secretary, if deemed expedient by the Commissioner. Examination of cases on appeal to the Secretary will be facilitated by filing in printed form such argument as it is desired to have considered.

Decisions of the Commissioner not appealed from within the period prescribed become final, and the case will be regularly closed. (Rev. Stat., section 2273.)

The decision of the Secretary is necessarily final, so far as respects the action of the Executive.

The minor details of the manner of proceeding in cases of contest before the Commissioner of the General Land Office and the Secretary of the Interior, for the information and guidance more especially of land officers and attorneys, may be found set forth in a separate pamphlet of "Rules of Practice."

DEPOSITS FOR SPECIAL SURVEYS.

The circulars and instructions of this office dated prior to June 6, 1885, relative to deposits by individuals for the survey of public lands under sections 2401 and 2402, United States Revised Statutes, and section 2403, Appendix No. 1, as amended by act of March 3, 1879 (20 Stat., 352, Appendix No. 29), and act of August 7, 1882 (22 Stat., 327, Appendix No. 30), were revoked and the following substituted therefor by circular of June 24, 1885, and amendatory circular of April 15, 1886.

1. The persons who are authorized to apply for surveys are "the settlers" under the pre-emption and homestead laws of the United States in the townships desired to be surveyed. Settlers are persons who have attached themselves permanently to the soil. None others are authorized to apply for surveys. Nomadic persons and persons employed by others to make applications for surveys, or to make alleged settlements for the purpose of acquiring a title to lands to be transferred to others, are not settlers within the meaning of the law and are not lawful applicants for surveys. The law contemplates bona fide surveys upon bona fide applications by actual settlers, and not otherwise, and no other applications or surveys are permissible under the statute.

2. As applications must be made by "the settlers" in the township, the body of such settlers must join in the application. There must also be a sufficient number of settlers to show good faith and to indicate that the survey is honestly desired for the benefit of existing actual settlements as contemplated by the law.

3. The deposit system being restricted by law to surveys for pre-emption and homestead settlers is not applicable to the survey of desert lands or desert land claims, nor to swamp lands, nor to lands valuable chiefly for timber, nor to waste or uncultivable lands of any character, nor to lands occupied, inclosed, or controlled for other than settlement purposes, nor to private land claims.

4. Townships within known mineral belts or known to contain mineral lands are not surveyable under this system.

5. Surveys under the deposit system are authorized only where "the township so proposed to be surveyed *is within the range of the regular progress of the public surveys embraced by existing standard lines or*

bases for the township and subdivisional surveys." Under this provision of the law it will be held that only township exteriors and subdivisional lines are surveyable, and that the deposit system is not applicable to the survey of standard lines or bases.

6. Retracements, or the resurvey of lines previously surveyed, will not be deemed authorized under the deposit system.

7. Applications must be made in writing, and must designate, as nearly as practicable, the township to be surveyed, and state that the applicants are actual bona fide settlers therein under the pre-emption and homestead laws of the United States; that they are well acquainted with the character and condition of the land included in said township, and that the same is not mineral or reserved by Government. Such applications must also particularly describe the land sought to be surveyed, stating whether the same is cultivable, grazing, timber, desert, swamp, mountainous, rocky, etc., and the reasons why it is claimed to be non-mineral, and must state the number of settlers in the township, the character and duration of their inhabitancy of the land, the extent and value of their improvements, the uses made of the land, and the quantity under cultivation. The situation of the township in respect to lines of public communication, and the progress of the settlement of the country should be described, and all facts and circumstances stated which will enable an intelligent judgment to be formed in respect to the propriety of making the survey applied for. These statements must be verified by affidavit, and applicants must also declare that their applications are made in good faith and not for the purpose of enabling a surveying contract to be obtained, nor at the instance or in the interest or for the benefit of any other person.

8. Surveyors-general will critically examine all applications for survey, testing the accuracy and reliability of the statements made by their knowledge of persons and lands and the best information they can obtain. They will reject all applications not believed by them to be made in good faith, upon truthful statements of fact, and for honest settlement purposes.

9. When an application for survey is approved by the survey-general, he will transmit the same to this office, with the required proofs, and his report upon the same, giving his reasons in full for the recommendation made. It is not believed that fictitious applications, or applications procured at the instance of surveyors or of operators in contract surveys, or applications designed to open unsettled townships to fraudulent entry can successfully be imposed upon vigilant and faithful officers. Surveyors-general will therefore be held to strict accountability for their recommendation of applications or contracts hereafter found to be fictitious, fraudulent, or speculative.

10. If the application is approved by this office, it will be returned to the surveyor-general, with authority to furnish the necessary estimate to applicants, and, upon proper deposit being made, to enter into contract for the execution of the survey.

11. The surveyor-general will furnish applicants with two separate estimates, one for the field work and one for office expenses. He will estimate adequate sums, and the practice of requiring additional deposits to cover excess costs will be discontinued except when expressly authorized by this office.

12. Upon receiving such estimates, applicants may deposit in a proper United States depository (which should be in the land district in which the township to be surveyed is situated), to the credit of the Treasurer of the United States on account of surveying the public lands and expenses incident thereto, the sum so estimated as the total cost of the

survey, including field and office work. If there be no public depository in the land district in which the lands are situated, the deposit may be made in an adjacent land district.

13. For convenience in the use and application of certificates, the deposit should be made in such sums as that no certificate shall bear a face value of more than two hundred dollars.

14. Applicants must be instructed fully as to the necessity of transmitting the *original* certificate to the Secretary of the Treasury, the *duplicate* to the surveyor-general, and the retention of the *triplicate*.

15. When evidence of the required deposit is furnished in accordance with the foregoing regulations the surveyor-general will invite proposals for the survey by notice posted in his office for a period of thirty days, specifying the survey to be made, and stating that the contract will be let to the lowest responsible bidder (being a practical and reliable surveyor) at rates not exceeding the minimum rates established by law for surveying the public lands. A copy of such notice will also be transmitted by the surveyor-general to the register and receiver of the land district in which the township to be surveyed is situated, and it shall be the duty of registers and receivers to post such notices conspicuously in their office.

16. The surveyor-general will prepare a contract with the accepted bidder, and transmit the same to this office for approval in the usual manner.

17. Triplicate certificates of deposit are receivable from the settlers making the deposits in part payment for their lands situated in the townships the surveying of which is paid for out of such deposits.

18. The triplicate certificates may be assigned by indorsement and be received in payment for lands "entered by settlers under the pre-emption and homestead laws of the United States at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere."

19. Triplicate certificates issued on and after August 7, 1882, can be received in payment for lands *only in the land district* in which the surveyed township is situated, *except when issued for additional deposits upon contracts entered into prior to August* 7, 1882.

20. Certificates issued subsequent to March 3, 1879, and prior to August 7, 1882, may, if assigned, be used in any land district.

21. Certificates issued prior to March 3, 1879, can be used only by the settlers in the purchase of lands in the township, the surveying of which was paid for out of such deposits; but they must be transmitted to this office for examination as to excess repayments, if any, before they can be accepted by the receiver, who will be governed by the certificates indorsed on or attached to them by this office.

22. Where the amount of a certificate or certificates is less than the value of the lands taken the balance must be paid in cash.

23. Where the certificate is for an amount greater than the cost of the land, but is surrendered in full payment for such land, the receiver will indorse on the triplicate certificate the amount for which it is received, and will charge the United States with that amount only.

24. There is no provision of law authorizing the issue of duplicate certificates for certificates lost or destroyed.

EXCESS REPAYMENTS.

25. Where the amount of the deposit is greater than the cost of the survey, including field and office work, the excess is repayable upon an account to be stated by the surveyor-general.

26. The surveyor-general will in all cases be careful to express upon the register's township plat the amount deposited by each individual, the cost of survey in the field and office work, and the amount to be refunded in each case.

27. Before transmitting accounts for refunding excesses the surveyor-general will indorse on the back of the triplicate certificate the following "$——— refunded to ——— ———, by account transmitted to the General Land Office with letter dated ———," and will state in the account that he has made such indorsement. Where the whole amount deposited is to be refunded, the surveyor-general will require the depositor to surrender the triplicate certificate, and will transmit it to this office with the account.

28. No provision of law exists for refunding to other than the depositor, nor otherwise than as referred to in the preceding sections.

ASSIGNMENTS.

29. Certificates issued *after March* 3, 1879, "may be assigned by indorsement." The indorsement required is that the person in whose name the deposit is made shall write his name on the back of the triplicate certificate.

30. When there are several parties to, or assignees of, one certificate, the register and receiver will make the proper indorsement on the triplicate certificate, showing the satisfaction of the pro rata share of each party interested. They will make the same notes on the register's certificate of purchase and the receiver's original and duplicate receipts.

31. When the entire amount of a certificate is not satisfied at the same time, the triplicate should be retained by the receiver until satisfied. But such certificate should as far as practicable be satisfied during the current quarter.

32. Certificates are not receivable in payment for lands sold at public or private sale, nor for mineral, desert, coal, or timber lands, nor for fees and commissions on homestead entries, nor in any manner otherwise than as provided by law.

REGISTERS' AND RECEIVERS' RETURNS.

33. In their monthly cash abstracts the register and receiver will designate the entries in which certificates of deposit are used and the balance paid in cash, if any, noting on the certificates of purchase and receipt the manner of payment. The receiver in his monthly account-current will debit the United States with the amount of such certificates, and in his quarterly accounts will specify each entry with these certificates, giving number, date, amount for which received, by whom and with whom the deposit was made, and debit the United States with the same.

34. The receiver must write across the face of each accepted certificate the date of its receipt in payment of land, the number of the entry, and description of the tracts sold.

35. Certificates received in payment for lands sold must be forwarded once a month to this office with letter of transmittal and abstract. (Form 4—543.)

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36. Surveyors-general are directed to instruct their deputies that they must designate in the field-notes and plats of their surveys the location

of each and every settlement within a township surveyed, whether permanent in character or not, together with the names of such settlers and their improvements, if any.

37. When no settlers are found in a township, the field-notes of survey must expressly so state, and any omission to describe the settlements and improvements, or the absence of one or both in the field-notes and plat, will be deemed a sufficient cause to infer fraud and the accounts of the deputy will be suspended until such omission shall have been supplied. A suspension of the commission of the deputy will in the meantime take place, and all the facts will be reported to this office for consideration and action.

38. In every case of a contract heretofore or hereafter approved which the surveyor-general has reason to believe was fraudulently procured, such contracts and the accounts thereunder must be immediately suspended and the facts reported to this office.

REGULATIONS GOVERNING THE RECOGNITION OF AGENTS AND ATTORNEYS BEFORE DISTRICT LAND OFFICERS.

1. An attorney at law who desires to represent claimants or contestants before a district land office must file a certificate, under the seal of a United States, State, or Territorial court for the judicial district in which he resides or the local land office is situated, that he is an attorney in good standing.

2. Any person (not an attorney at law) who desires to appear as an agent for claimants or contestants before a district land office must file a certificate from a judge of a United States court or of a State or Territorial court having common law jurisdiction, except probate courts, in the county wherein he resides or the local office is situated, duly authenticated under the seal of the court, that such person is of good moral character and in good repute, possessed of the necessary qualifications to enable him to render clients valuable service, and otherwise competent to advise and assist them in the presentation of their claims or contests.

3. The oath of allegiance required by section 3478 of the United States Revised Statutes must also be filed by applicants. In case of a firm, the names of the individuals composing the firm must be given, and a certificate and oath as to each member of the firm will be required.

4. An applicant to practice under the above regulations must address a letter to the register and receiver, inclosing the certificate and oath above required, in which letter his full name and post-office address must be given. He must state whether or not he has ever been recognized as an attorney or agent before this Department or any bureau thereof, or any of the local land offices, and if so, whether he has ever been suspended or disbarred from practice. He must also state whether he holds any office under the Government of the United States.

After an application to practice has been filed in due form, the register and receiver will recognize the applicant as an attorney or agent, as the case may be, unless they have good reason to believe that the person making the application is unfit to practice before their offices, or unless otherwise instructed by the Commissioner or Secretary.

Registers and receivers must keep a record of the names and residences of all attorneys and agents recognized as entitled to represent clients in their several offices.

Every attorney must, either at the time of entering his appearance for a claimant or contestant or within thirty days thereafter, file the written authority for such appearance, signed by said claimant or contestant, and setting forth his or her present residence, occupation, and post-office address. Upon a failure to file such written authority within the time limited, it is the duty of the register and receiver to no longer recognize him as attorney in the case.

An attorney in fact will be required to file a power of attorney of his principal, duly executed, specifying the power granted and stating the party's present residence, occupation, and post-office address.

When the appearance is for a person other than a claimant or contestant of record the attorney or agent will be required to state the name of the person for whom he appears, his post-office address, the character and extent of his interest in the matter involved, and when and from what source it was acquired. Authorizations and powers signed or executed in blank will not be recognized.

If any attorney or agent shall knowingly commit any of the following acts, viz: Represent fictitious or fraudulent entrymen; prosecute collusive contests; speculate in relinquishments of entries; assist in procuring illegal or fraudulent entries or filings; represent himself as the attorney or agent of entrymen when he is only attorney or agent for a transferee or mortgagee; conceal the name or interest of his client; give pernicious advice to parties seeking to obtain title to public land; attempt to prevent a qualified person from settling upon, entering, or filing, for a tract of public land properly subject to such entry or filing, or be otherwise guilty of dishonest or unprofessional conduct, or who, in connection with business pending in local land offices or in this Department, shall knowingly employ as subagent, clerk, or correspondent a person who has been guilty of any one of these acts, or who has been prohibited from practicing before the register and receiver or this Department, it will be sufficient reason for his disbarment from practice, and registers and receivers are authorized to refuse to further recognize any person as agent or attorney who shall be known to them or be proven before them to be guilty of improper and unprofessional conduct as above stated.

An attorney or agent who has been admitted to practice in any particular land district may be enrolled and authorized to practice in any other district upon filing with the register and receiver of such district a certificate of the register or receiver before whom he was admitted to practice that he is an attorney or agent in good standing.

Any unprofessional conduct on the part of an attorney or agent should be reported to the Commissioner at once, together with the action of the local land officers in the premises.

Appeals from the action of the register and receiver in refusing to admit to practice or in refusing to further recognize an agent or attorney will lie to the Commissioner and Secretary, as in other appealable cases.

(Circular approved March 19, 1887, 5 L. D., 508.)

RAILROAD ADJUSTMENT UNDER ACT OF MARCH 3, 1887.

In reference to the act of Congress of March 3, 1887 (24 Stat., 556; Appendix No. 31), providing for the immediate adjustment by the Secretary of the Interior of land grants for railroads, with provisions in favor of actual settlers and of innocent purchasers from the railroad companies, in cases indicated therein, and in accordance with prescribed principles, the following instructions, issued by the Secretary

to the Commissioner of the General Land Office, in accordance with which the adjustment is now in progress, are promulgated for the information of any parties interested, viz:

The act of March 3, 1887, authorizes and directs the Secretary of the Interior to immediately adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads, and heretofore unadjusted.

The second section of said act provides—

> That if it shall appear, upon the completion of such adjustments respectfully [respectively], or sooner, that lands have been, from any cause, heretofore erroneously certified or patented by the United States to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall be made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.

The provision contained in this section confers no greater power upon the Secretary of the Interior than he possessed before the passage of that act, and which from time to time has been exercised by that official in recommending to the Attorney-General that suits be brought to cancel patents appearing to have been erroneously certified or patented for the benefit of any railroad company.

The purpose of the act was to make that mandatory which before rested in the discretion of the Secretary in the exercise of his authority over the public lands. Heretofore the Secretary of the Interior might recommend and request the Attorney-General to institute suits for the cancellation of patents which, in his judgment, were erroneously issued for the benefit of any railroad company under its grants, and the Attorney-General, in the exercise of his authority, might grant or refuse such request as in his judgment might seem proper; but under the act above referred to, whenever it shall appear upon the completion of the adjustment of any railroad land grant, or sooner, that any lands have been erroneously certified or patented for the benefit of said company, it is made the imperative duty of the Secretary of the Interior to demand of said company a relinquishment or reconveyance to the United States of all such lands; and if the company neglects or fails to reconvey the same, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts necessary proceedings to cancel the patents for said lands, and to restore the title thereof to the United States.

Therefore, if in the adjustment of the grant of any road it should appear from the records in your office that any lands within either the granted or indemnity limits of such road have been erroneously certified or patented for the benefit of such company, either from an improper adjustment of the limits of said grant, or from the erroneous cancellation of any filing or entry, or from any cause whatever, you will report such facts to the Department for action thereon, stating fully and specifically the grounds upon which it is supposed such tracts were erroneously certified or patented and whether said tracts are within the granted or indemnity limits of said road.

The third section of said act provides—

> That if, in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any bona fide settler has been erroneously canceled on account of

any railroad grant or the withdrawal of public lands from market, such settler upon application shall be re-instated in all his rights and allowed to perfect his entry by complying with the public land laws: *Provided,* That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also,* That he did not voluntarily abandon said original entry: *And provided further,* That if any of said settlers do not renew their application to be re-instated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

This section does not embrace any lands that have been certified or patented to the company, but has reference solely to lands the right and claim to which has heretofore been adjudicated in favor of the company as against the right of a settler upon said lands, and which are still under the control and jurisdiction of the Department. The object and purpose of this section is to correct all decisions made by the Department or the General Land Office where it shall appear in the examination of any land grant heretofore unadjusted that the homestead or pre-emption entry of a bona fide settler was erroneously canceled. In such case a final decision of a former or the present Secretary is not only no longer a bar to the further consideration of the question decided, but it is made the duty of the Secretary to re-adjudicate the case, notwithstanding the former decision, whenever it appears that the pre-emption or homestead entry of any bona fide settler has been erroneously canceled on account of any railroad grant or of withdrawal of public lands from market.

In the adjustment of every grant to aid in the construction of railroads, you will make report upon all pre-emption and homestead entries of bona fide settlers that may in your judgment appear from the records of your office to have been erroneously canceled either because the land is within the limits of the railroad grant or because it has been withdrawn for indemnity purposes for said road, provided the right to the tract has been decided in favor of the company, and forward said report to the Department for consideration and action thereon, stating fully and specifically as to each particular tract, the grounds upon which you may determine that said pre-emption and homestead entries were erroneously canceled, and the right to the land erroneously decided in favor of the company; and upon filing said report you shall cause notice thereof to be given to both parties, advising them that said case will be held by this Department for thirty days before action, during which time they can make such showing as they may desire.

If in such report you should determine that the pre-emption or homestead entry of any bona-fide settler has been erroneously canceled and the right to the land adjudged in favor of the railroad and your decision thereon shall be sustained by the Department, after due notice the land will then be subject to disposal as provided for in said section; that is, the settler whose entry was erroneously canceled will be notified of his right to make application to be re-instated in all his rights, and if such settler shall make such application within a reasonable time, to be fixed by the Secretary of the Interior in such notice, he shall be re-instated in all his rights: *Provided,* That he shows affirmatively that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry. If said settler should fail to make application within the time required, and to show that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry, then all such unclaimed lands shall be disposed of under the public-land laws, with priority of right given to bona-fide purchasers of said unclaimed lands, if any, and if there be no such

purchasers, then to bona-fide settlers residing thereon. The bona-fide purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which had been previously entered by the pre-emption or homestead settler, whose entry has been erroneously canceled as described in the first clause of the third section, and which land the pre-emption or homestead settler did not elect to claim after recovery by the proceedings prescribed by the second section of the act.

As to the lands which have been erroneously certified or patented to the company (being the lands referred to in the second section), the fourth section of the act provides for the disposal of such of those lands as may have been sold by the company to citizens of the United States or persons who have declared their intention to become such citizens, upon the following conditions:

After said lands shall have been reconveyed to the Government or the title to the same recovered, the class of persons above referred to so purchasing in good faith, their heirs or assigns, shall be entitled to the land so purchased upon making proof of such purchase at the proper land office within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted, and patent shall issue to such persons, which shall relate back to the original certification or patenting. The section then provides that the Secretary of the Interior shall demand of the company payment for said lands of an amount equal to the Government price of similar lands, and in case of the neglect or refusal of the company to make payment thereof within ninety days after demand, the Attorney-General shall cause suits to be brought against the company for said amount. Under the act the purchaser of such lands from the company may recover from the company the purchase-money paid by him less the amount paid by the company to the United States.

A mortgage or pledge of said lands by the company is not a sale within the meaning of the act.

The object of this section is to confirm to the purchaser the title to the lands therein referred to upon making proof of such purchase, and that the purchaser has the qualifications required by the act without requiring of the purchaser any further payment to the Government of the purchase price of said land.

The fifth section of said act reads as follows:

That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona-fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona-fide purchaser, his heirs or assigns: *Provided*, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona-fide occupation of adverse claimants under the pre-emption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said pre-emption and homestead claimants shall be permitted to perfect their proofs and entries and to receive patent therefor: *Provided, further*, That this section shall not apply to lands settled upon subsequent to the 1st day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become

such citizens, the numbered sections prescribed in the grant and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers (if their purchases are bona fide) to purchase said land from the Government by payment of the Government price for like lands, unless said lands were at the date of purchase in the bona-fide occupation of adverse claimants under the pre-emption or homestead laws, in which case the pre-emptor or homestead claimant may be permitted to perfect his proof unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser, whether said purchase was made prior to or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

The sixth section provides that when any such lands have been sold and conveyed as the property of the company for State and county taxes, and the grant to the company has been thereafter forfeited, the purchaser at such sale shall have the preference right for one year from the date of the act in which to purchase said lands from the United States by paying the Government price for said lands, provided said lands were not previous to or at the time of the taking effect of such grant in the possession of or subject to the right of an actual settler.

The seventh section provides:

> That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation, or individual would be rightfully entitled.

You will proceed at once, and with as much dispatch as possible, to adjust all land grants to aid in the construction of railroads under the provisions of the act above referred to and in accordance with the directions herein given. You will inform the Department at once when you commence the adjustment of any grant in order that cases pending in the Department involving the rights of the road under such grant may be taken up and considered. (6 L. D., 276.)

REPAYMENTS.

Section 2362 of the Revised Statutes (Appendix No. 1) provides for repayment to the purchaser, or his legal representatives or assignees, upon proof "that any tract of land has been erroneously sold by the United States, so that from any cause the sale can not be confirmed."

Section 2 of the act of June 16, 1880 (21 Stat., 287; Appendix No. 21), provided that "in all cases where homestead, or timber-culture, or desert-land entries, or other entries of public lands have been heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and can not be confirmed," the amount of purchase money, fees, and commissions may be repaid.

DEFINITION OF "ERRONEOUSLY ALLOWED."

This can not be given an interpretation of such latitude as would countenance fraud. If the records of the Land Office, or the proofs

furnished, should show that the entry ought not to be permitted, and yet it were permitted, then it would be "erroneously allowed." But if a tract of land were subject to entry, and the proofs showed a compliance with law, and the entry should be canceled because the proofs were shown to be false, it could not be held that the entry was "erroneously allowed;" and in such case repayment would not be authorized.

APPLICATION FOR REPAYMENT OF PURCHASE-MONEY.

In applications for repayment where patent has not issued the duplicate receipt must be surrendered. The applicant must make affidavit that he has not transferred or otherwise incumbered the title to the land, and that the same has not become a matter of record. This affidavit may be made before either the register or receiver of the district land office, or before any officer authorized to administer oaths. When made before a notary public or justice of the peace a certificate of official character is required.

If the duplicate receipt has been lost or destroyed the party applying must advertise the fact of such loss, giving notice of his intention to apply for repayment of the purchase money. This advertisement must be inserted weekly for six weeks in some newspaper of extensive circulation in the vicinity of the land. A copy of the advertisement, with the affidavit of the publisher, or other person having charge of the paper, that it was inserted the requisite number of times, must accompany the papers in the case. Where the duplicate receipt has been lost or destroyed, a certificate will also be required from the proper recording officer, showing that the same has not become a matter of record, and that there is no incumbrance of the title to the land thereunder. A like certificate must be furnished when the application is made by another than the original purchaser.

Where a patent has been executed and delivered, it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, a duly executed deed, relinquishing to the United States all right and claim to the land under the entry or patent, must accompany the application. This deed must be duly recorded, and a certificate must also be produced from the proper recording officer where the land is situated, showing that said deed is so recorded, and that the records of his office do not exhibit any other conveyance or incumbrance of the title to the land.

Where a valid title to the land embraced in a canceled entry has been conveyed by the Government to other parties, the applicant for repayment under such canceled entry must reconvey to the United States the title derived from such invalid entry. If, however, the applicant has acquired the valid title already conveyed by the United States, it will not be necessary for him to reconvey the land, but he may make a full statement, with corroborative evidence of the facts, waiving all claim under the invalid entry, and thereupon receive repayment of the amount erroneously paid.

The reconveyance to the United States must conform in every particular to the laws of the State or Territory in which the land is located relative to transfers of real property; in the case of a married man, in localities where the right of dower exists, there must be a release of dower by the wife; and in case of an executor or administrator, due proof of authority to alienate the estate.

HEIRS, EXECUTORS, AND ADMINISTRATORS.

Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased. Where application is made by executors a certificate of executorship from the probate court must accompany the application. Where application is made by administrators the original or a certified copy of the letters of administration must be furnished.

ASSIGNEES.

Assignees of land who purchase after entry are, in general, deemed entitled to receive the repayment when the lands are found to have been erroneously sold by the Government. But this rule does not apply to the repayment of double minimum excesses.

Where applications are made by assignees the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof, and also show by affidavits or otherwise that they have not been indemnified by their grantors or assignors for the failure of title, and that title has not been perfected in them by their grantors through other sources.

Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee.

REPAYMENT OF FEES, COMMISSIONS, AND EXCESSES.

The first section of the act of June 16, 1880, provides for the repayment to *innocent parties* of the fees, commissions, and excess payments made upon soldiers' additional homestead entries which were, after location, found to be fraudulent and void, and have therefore been canceled.

Applications for repayment under this section must be accompanied by the duplicate receipt, or evidence of the loss of the same, and by a concise statement under oath setting forth all the facts and circumstances connected with the procurement and use of the fraudulent papers upon which the canceled entries were based, together with such documentary or other proof as may tend to establish the innocence of the parties relative thereto.

In the case of soldiers' additional homestead entries, repayment of fees, commissions, and excesses can be made only to the party who paid the same—not to a party to whom the claimant conveyed the land.

In the case of applications for the repayment of fees, commissions, etc., on canceled homestead and other entries, under the second section of the act, the duplicate receipt must be surrendered, with a relinquishment of all right, title, and claim in and to the land described in the receipt indorsed thereon, attested by two witnesses, and acknowledged before the register and receiver or before any officer authorized to take acknowledgments. If the duplicate receipt has been lost or destroyed an affidavit stating the fact must be furnished, together with a relinquishment of the character indicated. The applicant must make affidavit that he has not made another entry with the credit of the fee and commission paid by him on the canceled entry.

REPAYMENT OF DOUBLE-MINIMUM EXCESS.

The last clause of the second section of the act of June 16, 1880, provides that "in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof or to the heirs or assigns." In such cases the duplicate receipt must be surrendered; or if lost or destroyed, an affidavit stating that fact must accompany the application.

Repayment of double-minimum excesses will be made only to the original entryman, his heirs, or legal representatives, or to the assignee, specifically, of the excess purchase-money. The sale and transfer of the land is not of itself treated as an assignment of the right to receive repayment of double-minimum excess.

TRANSMITTAL OF APPLICATIONS.

All applications for repayment under the above provisions must be made in writing and be signed by the party applying, and must describe the tract or otherwise designate the entry with certainty. They should be transmitted, with all the papers in the case, through the register and receiver of the proper district land office, who will make due report thereon.

REPAYMENTS UNDER THE ACT OF MARCH 3, 1887.

In addition to the provisions for repayment mentioned in the foregoing, there are special provisions contained in the act of March 3, 1887, entitled "An act for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas" (24 Stat., 550. Appendix No. 32). Under these provisions three classes of persons who settled upon or purchased lands within the grant made by an act entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph," approved July 23, 1866, are entitled to re-imbursement, viz:

1. All persons, their grantees, heirs, and devisees, who settled upon or purchased lands within the limits of the grant in question, and to whom patents have been issued, but against whom decrees have been or may hereafter be rendered by the United States circuit court on account of the priority of the railroad grant.

2. Any person, his grantees, heirs, assigns, or devisees, who shall prove to the satisfaction of the Secretary of the Interior that his case is like those of the class above described, except that he has not been sued and subjected to judgment, and that he has, in good faith, without litigation, paid to the person holding the prior title by the railroad grant the sum demanded of him.

3. Only actual and bona fide settlers on the lands referred to in the preceding sections, their grantees, heirs, representatives, or devisees, are entitled to re-imbursement under the decree, not to exceed $3.50 per acre; but no one person shall be entitled to compensation at such rate for more than 160 acres.

4. All other persons who purchased any part of said lands at $1.25 per acre, their heirs, assigns, or legal representatives, are entitled to repayment at $1.25 per acre, provided said money was actually paid into the Treasury.

In the execution of this act the following regulations are prescribed:

1. All applications under this act must be made in writing, and be signed by the party applying, and must describe the tract and designate the entry with certainty.

2. Claimants of the class first described must file copy of the decree, duly certified by the clerk and under the seal of the court rendering the same, to the effect that such a decree was rendered in a bona fide controversy between a plaintiff showing title under the grant, and a defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said act to the filing, settlement, or purchase by the defendant or his grantor.

3. Claimant must also file with said decree and certificate, a bill of costs in such case, duly certified by the clerk and under the seal of the court in which the decree was rendered.

4. Claimants of the second class will be required to furnish a certified copy of the record of the transfer from said company, or from the company's grantee, with evidence that he has in good faith paid to the person holding the prior title the sum demanded of him without litigation.

5. Claimants of the third class should apply for a refundment of purchase-money in accordance with regulations governing the repayment of purchase-money for lands erroneously sold.

6. When the grantee, assignee, or devisee of the original purchaser makes application under this act, he must, in addition to the foregoing, show his right to receive the money by furnishing proper authenticated abstracts of title or the original deed or instrument of assignment, or of the will, or certified copies thereof.

7. When application is made by heirs, satisfactory proof of heirship is required.

8. When application is made by executors, the original or a certified copy of letters testamentary must accompany the application.

9. When application is made by administrators, the original or a certified copy of letters of administration must be furnished.

10. All parties who are entitled to repayment under the aforesaid act will be required to execute a relinquishment, which must accompany the application, in the following or equivalent form:

Know all men by these presents, that I, ——, of ——, for and in consideration of the sum of ——, to me paid by the United States, have released and forever discharged the United States from all claim of any kind, nature, and character whatsoever, by virtue of the act of Congress approved March 3, 1887; and that I am the identical party named in the decree, in the case of —— *vs.* ——, or who made said entry No. —, at —— land office, State of ——.

——. ——.

Two witnesses:

——— ———.

——— ———.

STATE OF ——— }
County of ——— } *ss:*

On this —— day of ——, 188-, before the subscriber, a —— in and for said county, personally came ——, to me well known to be the person who subscribed the foregoing release, and who upon being duly sworn by me according to law on —— oath declared and acknowledged that —— had freely and voluntarily executed the foregoing release and for the reasons stated; and at the same time came —— residing at —— and also —— residing at ——, each of whom being by me duly sworn according to law deposed and said, each for himself and not one for the other, that they well knew the person making the said release to be the individual described in the decree, or who made said entry and who executed the said release.

Subscribed, sworn to, and acknowledged before me this ——, 188-.

——— ———.

NOTE.—This must be acknowledged before a clerk of a court or other officer authorized to take acknowledgments of deeds in the county where the lands are situated whose official character and signature must be certified to by the clerk of a court of record.

THE BOARD OF EQUITABLE ADJUDICATION.

The board of equitable adjudication is established and its powers defined by sections 2450 to 2457 of the Revised Statutes (Appendix No. 1), amended by act of February 27, 1877, substituting the Secretary of the Interior for the Secretary of the Treasury as one of the board. It consists of the Secretary of the Interior, the Attorney-General, and the Commissioner of the General Land Office, and is authorized "to decide upon principles of equity and justice * * * all cases of suspended entries of public lands * * * and to adjudge in what cases patents shall issue upon same." The board has no power to adjudicate adverse claims between contesting parties, but only between the United States and claimants, in cases where the law has been substantially complied with, but where error or informality has arisen from ignorance, accident, or mistake, which is satisfactorily explained.

This board is a tribunal of special and limited jurisdiction, outside of which it has no authority, but inside of which it is exclusive. No appeal lies from its decisions, nor are they subject to review by any other tribunal.

(For the rules and regulations of the Board of Equitable Adjudication, see Appendix No. 33.)

CHANGES OF ENTRY.

In order to secure uniformity in proceedings upon applications for change of entry, attention is called to the following sections of the Revised Statutes and accompanying instructions:

SEC. 2369. In every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office, and if it appears from testimony satisfactory to the register and receiver that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, the register and receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

SEC. 2370. The provisions of the preceding section are declared to extend to all cases where patents have been issued, or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

SEC. 2371. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land-warrants.

SEC. 2372. In all cases of an entry hereafter made of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract thus erroneously entered does not in quantity exceed one half-section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion has been used to avoid the error with the register and receiver of the land district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each

person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion has been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered, if unsold; but if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry; nor shall anything herein contained affect the right of third persons.

It will be observed that section 2369 is intended to afford relief to purchasers of public lands at private sale whose errors in entry have been occasioned by the original incorrect marking by the surveyor, or by the subsequent change or obliteration of those marks, or by any other error originating either with the surveyor or the land officers.

Section 2370 extends the foregoing provision to cases where patents have been or may be issued.

Section 2371 extends the provisions of both the preceding sections to errors in the location of land warrants.

Section 2372, further extending these provisions, applies to all classes of entries, and also embraces cases where the error was not occasioned by any act of the surveyor or of the land officers, but restrict changes of entry to cases in which the tract erroneously entered does not in quantity exceed one half section, and where the certificate of the original purchaser has not been assigned or his right in any way transferred.

Change of entry may therefore be allowed, in accordance with these provisions, in respect to either of the following classes of cases, viz:

Purchases at public sale.

Private entries.

Pre-emption entries.

Military bounty land-warrant locations.

Scrip locations, etc.

A change of entry, when allowed, will be made from the tract erroneously entered to that intended to have been entered, if vacant; but if not vacant, the change may be made to any other tract liable to entry.

APPLICATION FOR CHANGE OF ENTRY.

The application must, in all cases, be made by the party making the original entry, or, in case of his death, by his legal representatives, not being assignees or transferees.

The applicant must file an affidavit showing the nature and particular cause of the error, and that every reasonable and proper precaution had been used to avoid it, accompanied by the best corroborative testimony that can be procured. The oath of the party interested is not of itself sufficient.

The affidavit must also show that the land erroneously entered has not been transferred or otherwise encumbered.

This evidence, together with the joint opinion of the register and receiver as to the existence of the mistake, and the credibility of each person testifying thereto, will be forwarded for the decision of this office.

Where a patent has not been issued they will require the surrender of the duplicate receipt, or certificate of location (as the case may be), accompanied by the affidavit of the party that he has not sold, assigned, nor in any way encumbered the title to the land described in the application, and that said title has not become a matter of record.

Where a patent has issued it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, they will require a quitclaim deed, or release, to the

United States, which deed must be executed, acknowledged, and recorded in accordance with the laws of the State or Territory in which the land is situated. They will also require a certificate from the county clerk, or other officer having charge of the books in which any conveyance of the land is required to be recorded to give it validity, stating that the records of such office do not exhibit any conveyance or other incumbrance of the land in question. In the case of a married man, a properly executed release of dower by the wife must be furnished, if a right of dower exists under the local law.

WHEN CHANGE OF ENTRY IS ALLOWED.

In all cases of application for a change of entry, when the evidence is satisfactory, a new register's certificate will be authorized by this office, which certificate will bear the current number and date, and will be indorsed with the authority for such change.

The tract to which the change is allowed, its area, etc., will be reported on the proper monthly abstracts, with a noting in red ink of the items credited from the old certificate, and not included in the footings.

Any excess over an original amount will be accounted for as in case of the other excesses.

FURNISHING CERTIFIED COPIES.

Annexed are the laws (Revised Statutes of the United States) relative to the powers and duties of the General Land Office in furnishing exemplifications of patents, papers, or plats on file or of record therein; of the legal force and effect of such certified copies, and the terms upon which the same can be procured. (Secs. 461, 891, 2469, 2470, Rev. Stat.; Appendix No. 1.)

With a view to give proper effect to said statutes, the following requirements are prescribed by direction of the Secretary of the Interior.

First. All copies which may be required by parties interested will be furnished when the cost thereof shall first have been paid to the General Land Office.

Second. The applicant must address a communication to the Commissioner of the General Land Office designating the tract or tracts in regard to which the verified transcripts are wanted, describing as accurately as possible the record, papers, or plats of which said transcripts are desired, and sending a sum of money quite sufficient to cover the cost according to the extent of the copying required; and should the sum sent to this office be in excess of the actual legal cost, such excess will be returned to the applicant.

The following is the tariff established under the statute, section 461, for furnishing transcripts, to wit:

1. Fifteen cents for every hundred words in a transcript.
2. Two dollars for copy of township plat or diagram.
3. One dollar for the Commissioner's certificate of verification and official seal.

Third. Upon the receipt at the General Land Office of the application particularly describing the record or paper of which transcripts are required, accompanied by the requisite amount to cover the expense, the same will be duly acknowledged, and the exemplifications promptly transmitted.

Photolithographic township plats and maps of the States and Territories remaining on hand in this office may be sold to citizens of the United States, certified copies at 50 cents per copy; uncertified copies at 25 cents per copy, under act of Congress approved October 12, 1888, pamphlet statutes, page 557.

DUTIES OF REGISTERS AND RECEIVERS.

The duties of registers and receivers in many cases connected with the administration of the laws regarding public lands have already been incidentally set forth.

In addition thereto they will observe the following:

REGULAR ATTENDANCE AT OFFICE.

They will be in attendance regularly at their offices, keeping the same open for transaction of business from 9 o'clock a. m. till 4 o'clock p. m., and giving all proper information and facilities to persons applying therefor, without charge, except as provided by law.

ENTRY APPLICATIONS.

Applications to make entry can not be received by the register or receiver out of office hours, nor elsewhere than at their offices, nor can affidavits or proofs be taken by either of them except in the regular and public discharge of their ordinary duties.

Registers and receivers must note upon the paper itself, in case of every filing, declaration, or application (where the same is not executed before them and presented by the applicant in person), the name of the party by whom the same was presented or transmitted. (Circular approved October 25, 1886, 5 L. D., 198.)

NOTICES.

All notices given by registers and receivers of hearings, decisions, or other action, whether of their offices or of this office, involving the right of appeal by any party or the exercise of other rights within a certain time, or compliance with some official requirement, must be served personally or by registered letter.

When personal service is had the register and receiver will transmit to this office the acknowledgment of such service or evidence thereof. When service is made by registered letter the return letter receipt, or returned letter, as the case may be, must, in every instance, be sent up with the papers in the case.

The costs of registration will be paid out of the advances from the proper appropriations, and estimates therefor will be embraced in the usual requisitions. (Circular approved October 28, 1886, 5 L. D., 204.)

SPECIAL REPORTS.

The habitual failure of local officers to promptly notify this office when appeals are not taken from decisions or action of this office, or where parties do not comply with requirements made, or where they take no action under notices directed to be given, involves great em-

barrassment and delay, and causes unnecessary correspondence to obtain the information which the register and receiver are expected and required to furnish without special calls therefor.

In order to obviate these difficulties it is directed:

First. That in each local land office at least two current dockets must be kept.

1. A docket of contested cases in which every case of individual contest shall be entered when initiated, and thereafter a memorandum of every order made or action taken in such case, either by the local office or by this office or by the Secretary of the Interior, shall also be entered as soon as any action is had or notice thereof received.

2. A docket in which shall be entered every entry of any character which is held for cancellation, or in which further evidence is called for, or other requirements made involving the right of appeal or other action by the party, and reports thereon by the local officers. In each case memoranda shall at once be entered on the docket of all holdings, calls, or other action by this office, stating the nature thereof, the time allowed for appeal, reply, or other proceeding, the date and initial of Commissioner's letter, and the date of notice and evidence of service of notice, together with any other memoranda deemed necessary.

Second. The date when the period allowed for appeal, reply, or other action by the party will expire, and a report to the General Land Office by the local officers become due, must in every instance be distinctly noted on the dockets at the time notice is given to the party.

Third. Upon every Saturday the dockets must be carefully examined, and reports to this office made in all cases where time for report has arrived. (Circular approved December 18, 1885, 6 L. D., 12.)

COMMISSIONS, FEES, AND SALARY.

They are prohibited from making any charges for their services other than such as are provided by law. (Secs. 2238, 2239, and 2246, Rev. Stat., Appendix No. 1; act May 14, 1880, 21 Stat., 140, Appendix No. 7; act March 3, 1883, 22 Stat., 484, Appendix No. 22; act July 4, 1884, 23 Stat., 96, Appendix No. 16; act August 4, 1886, and act March 3, 1887, 24 Stat., 239, *idem*, 526, Appendix No. 23.)

Receivers will deposit to the credit of the Treasurer of the United States all moneys received for reducing testimony to writing, and all other fees which, by the act of March 3, 1883, were authorized to be retained by registers and receivers (except the amount payable for clerk hire, in accordance with the terms of the law), as other public moneys of the United States received from fees and commissions are deposited. All such fees will be reported in detail on the receiver's monthly detailed account-current thereof (Form 4—146), and accounted for in their monthly and quarterly accounts. *But fees not earned, that is, deposits made for services to be rendered, are not to be deposited or accounted for until they become public moneys of the United States.*

The fee of $1, authorized to be retained by the register for giving notice of the cancellation of an entry, as provided by the act of May 14, 1880, will be paid to the receiver, who will deposit it with the other fees, when the entry is canceled and the notice given. Should the cancellation not take place and no notice be given the fee is to be returned to the depositor.

In computing the fees for reducing testimony to writing the words actually written by registers and receivers, or persons in their employ, only must be charged for at the rates allowed by paragraphs 10, 11, and

12, of section 2238, Rev. Stat., and no charge is to be made for the printed words. The words actually written must be counted and charged for, and there can be no uniform fee of a specified sum applicable to every case of the same class of entries; that is, registers and receivers can not fix the fee at $1 or more for each pre-emption, final homestead, or mineral entry.

Under the second section of the act of March 3, 1883, authorizing a charge to be made for plats or diagrams, the fees for the same are fixed as follows:

For a township diagram showing entries only	$1.00
For a township plat showing entries, names of claimants, and character of entry	2.00
For a township plat showing entries, names of claimants, character of entry, and number	3.00
For a township plat showing entries, names of claimants, character of entry, number and date of filing or entry, together with topography, etc	4.00

There is no legal authority for registers and receivers to charge or receive a fee of 25 cents for plats or diagrams of a section or a part of a section of a township.

In all cases where the final proofs required in section 2291, Rev. Stat., are taken by judges and clerks of court the register and receiver will, under act of March 3, 1877 (Appendix No. 3), be allowed the same fees for "examining and approving" the testimony as would be charged if the testimony were taken by themselves.

The attention of registers and receivers is called to section 2242, Rev. Stat. (Appendix No. 1), as follows:

> No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and on satisfactory proof that either of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

This statute will be strictly enforced.

Registers of land offices have no right officially to receive any moneys whatever except such as are paid to them by receivers as salary, fees, and commissions. Should any money be forwarded to the register or paid to him, he will at once pay over the same to the receiver; and where parties address the register as to the cost of any service required, he will refer the matter to the receiver for answer, as the latter is the proper officer to receive all public moneys.

All fees collected by registers and receivers, from any source whatever, which would increase their salaries beyond $3,000 each a year, shall be covered into the Treasury, except only so much as may be necessary to pay actual cost of clerical services employed exclusively in contested cases, and they shall report quarterly under oath, of all expenditures for such clerical services, with vouchers therefor. (Act of August 4, 1886, 24 Stat., 239, Appendix No. 23, repeated in act March 3, 1887, 24 Stat., 526.)

MONTHLY REPORTS.

Within three days from the close of each month the register and receiver must make out and transmit to the General Land Office a statement of the business of their respective offices for the preceding month.

These reports are in the form of abstracts of pre-emption declarations and of soldiers' declarations filed, abstracts of lands sold, abstracts of homesteads entered, abstracts of timber-culture entries allowed, abstracts of military bounty-land warrants and of agricultural college scrip located, accompanied by the certificates of purchase, receivers'

receipts, homestead and timber-culture applications and affidavits, military bounty-land warrants and agricultural-college scrip surrendered as satisfied, and the certificates of location thereof; also of all other forms of entry or location requiring separate returns. Names of parties must be clearly and legibly written in these papers to correspond with the signature to every application; and when spelled in two or more ways, or illegibly written by the person signing, the register must ascertain by proper inquiry the correct orthography; and certify to the same upon the margin of the certificate.

The abstracts, after being carefully examined by the register and receiver, are to be certified by them as correct and as in conformity with the papers in the entries or locations embraced therein and with their records, which papers, abstracts, and records must agree with each other.

MONTHLY AND QUARTERLY STATEMENT OF ACCOUNTS.

The receiver is required to render promptly, to the Commissioner of the General Land Office and to the Secretary of the Treasury, a monthly account of all moneys received, showing the balance due the Government at the close of each month; and at the end of every quarter he must also transmit a quarterly account. (Sec. 2245, Rev. Stat.; Appendix No. 1.)

He is required to deposit the moneys received by him at some depository designated by the Secretary of the Treasury, when the amount on hand shall have reached the sum of $1,000; and in no case is he authorized, without special instructions, to hold a larger amount in his hands.

Laws and instructions relating to mining claims, bounty lands, railroad adjustments, town sites, timber depredations, and other special matters, form the subject of separate circulars.

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

Approved:
WM. F. VILAS,
Secretary of the Interior.

[No. 1.]

REVISED STATUTES OF THE UNITED STATES.

THE SECRETARY OF THE INTERIOR.

* * * * * * *

SEC. 441. The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:

Duties of Secretary.
3 Mar., 1849, c. 108, ss. 3, 5, 6, 7, 8, 9, v. 9, p. 395.
8 July, 1870, c. 230, s. 1, v. 16, p. 198.
5 Feb., 1859, c. 22, s. 1, v. 11, p. 379.
20 July, 1868, c. 176, s. 1, v. 15, pp. 92, 106.
Maguire *v.* Tyler, 1 Bl., 195.

First. The Census; when directed by law.
Second. The public lands, including mines.
Third. The Indians.
Fourth. Pensions and bounty-lands.
Fifth. Patents for inventions.
Sixth. The custody and distribution of publications.
Seventh. Education.
Eighth. Government Hospital for the Insane.
Ninth. Columbia Asylum for the Deaf and Dumb.

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COMMISSIONER OF THE GENERAL LAND OFFICE.

Duties of Commissioner.
25 April, 1812, c. 68, s. 1, v. 2, p. 716.
4 July, 1836, c. 352. s. 1, v, 5, p. 107.

SEC. 453. The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all agents [grants] of land under the authority of the Government.

* * * * * * *

EXEMPLIFICATIONS OF PATENTS, RECORDS, BOOKS, OR PAPERS.

SEC. 461. All exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plats or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; and one of the employés of the Office shall be designated by the Commissioner as the receiving clerk, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish. (See secs. 891, 2469, and 2470.)

* * * * * * *

SEC. 891. Copies of any records, books, or papers in the General Land Office, authenticated by the seal and certified by the Commissioner thereof, or, when his office is vacant, by the principal clerk, shall be evidence equally with the originals thereof. And literal exemplifications of any such records shall be held, when so introduced in evidence, to be of the same validity as if the names of the officers signing and countersigning the same had been fully inserted in such record. (See secs. 461, 2469, 2470.)

REGISTERS AND RECEIVERS.

Appointment of registers and receivers.
See all acts establishing land districts.

SEC. 2234. There shall be appointed by the President, by and with the advice and consent of the Senate, a register of the land office and a receiver of public moneys, for each land district established by law.

Residence of register and receiver.
See all acts establishing land districts.

SEC. 2235. Every register and receiver shall reside at the place where the land office for which he is appointed is directed by law to be kept.

Bond of register and receiver.
10 May, 1800, c. 55, ss. 1, 6, v. 2, pp. 73, 75. 3 March, 1853, c. 145, s. 5, v. 10, p. 245.

SEC. 2236. Every register and receiver shall, before entering on the duties of his office, give bond in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of his trust.

Salaries of register and receiver
30 May, 1862; c. 86, s. 6. v. 12, p. 409. 26 April, 1818, c. 123, v. 3. p. 466.

SEC. 2237. Every register and receiver shall be allowed an annual salary of five hundred dollars.

Fees and commissions of register and receiver.
4 Sept. 1841, c. 16, s. 12, v. 5. p. 456. 21 Mar., 1864, c. 38, s. 4, v. 13, p. 35.

SEC. 2238. Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:

First. A fee of one dollar for each declaratory statement filed, and for services in acting on pre-emption claims.

Second. A commission of one per centum on all moneys received at each receiver's office.* 20 April, 1818, c. 123, v. 3, p. 466.

Third. A commission to be paid by the homestead applicant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent. 21 March, 1864, c. 38, s. 2, v. 13, p. 35. 20 May, 1862, c. 75, s. 6, v. 12, p. 393, 15 July, 1870, c. 294; s. 25, v. 16, p. 320.

Fourth. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.† 3 March, 1873, c. 277, s. 6, v. 17, p. 606.

Fifth. For locating military bounty-land warrants issued since the eleventh day of February, eighteen hundred and forty-seven, and for locating agricultural college land-scrip, the same commission to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of one dollar and twenty-five cents per acre. 22 March, 1852, c. 19, s. 2 v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505.

Sixth. A fee, in donation cases, of two dollars and fifty cents for each final certificate for one hundred and sixty acres of land; five dollars for three hundred and twenty acres; and seven dollars and fifty cents for six hundred and forty acres. 30 May, 1862, c. 86, s. 6, v. 12, p. 409. *Dec.* 17, 1880, c. 2, *v.* 21, *p.* 311.

Seventh. In the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges), a fee of one dollar for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location. 1 July, 1864, c. 196, s. 1, v. 13, p. 335.

Eighth. A fee of five dollars per diem for superintending public-land sales at their respective offices; [and to each receiver, mileage in going to and returning from depositing the public moneys received by him.]‡ 24 April, 1820, c. 51, s. 5, v. 3, p. 567.

Ninth. A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties. 10 May, 1872, c. 152, s. 12, v. 17, p. 95.

Tenth. Registers and receivers are allowed, jointly, at the rate of fifteen cents per hundred words for testimony reduced by them to writing for claimants, in establishing preemption and homestead rights. 21 March, 1864, c. 38, s. 4, v. 13, p. 35.

Eleventh. A like fee as provided in the preceding subdivision when such writing is done in the land-office, in establishing claims for mineral lands. 10 May, 1872, c. 152, s. 12, v. 17, p. 95.

Twelfth. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section. 21 March, 1864, c. 38, s. 6, v. 13, p. 36, and several acts establishing land offices for Utah, Wyoming, and Montana.

SEC. 2239. The register for any consolidated land-district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts Fees of register and receiver for consolidated land offices. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

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* This clause is construed to refer only to receipts from cash sales. It does not apply to fees and commissions. (Circular January 23, 1880.)

† This clause was superseded by act of March 13, 1874 (18 Stats., 21), which was in turn superseded by act of June 14, 1878 (20 Stats., 113; Appendix No. 15), as interpreted by the decision of the First Comptroller (Copp's Land Owner, vol. ix, p. 240).

‡ Part in brackets repealed. Actual expenses only allowed. Act June 16, 1874, Stats., vol. 18, p. 72.

for individuals, or furnishing any other record information respecting public lands or land-titles in his consolidated land-district, such fees as are properly authorized by the tariff existing in the local courts of his district; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the desired record information.

Maximum of compensation for registers and receivers.
21 March, 1864, c. 33, s. 6, v. 13, p. 36. 20 April, 1818, c. 123, v. 3, p. 466. 20 May, 1862, c. 75, s. 6, v. 12, p. 393. 30 May, 1862, c. 86, s. 6, v. 12, p. 409. 1 July, 1864, c. 196, s. 1, v. 13, p. 335. 22 March, 1852, c. 19, s. 3, v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505. 2 Feb., 1859, c. 19, v. 11, p. 378. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.—U. S. *vs.* Babbit, 1 Bl., 55.

SEC. 2240. The compensation of registers and receivers, including salary, fees, and commissions, shall in no case exceed in the aggregate three thousand dollars a year each; and no register or receiver shall receive for any one quarter or fractional quarter more than a pro-rata allowance of such maximum.*

Excess of compensation to be paid into Treasury.
3 March, 1853, c. 97, s. 1, v. 10, p. 204. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

SEC. 2241. Whenever the amount of compensation received at any land-office exceeds the maximum allowed by law to any register or receiver, the excess shall be paid into the Treasury, as other public moneys.

Illegal fees: Penalty.
22 March, 1852, c. 19, s. 3, v. 10, p. 4. 17 July, 1854, c. 84, s. 6, v. 10, p. 306.

SEC. 2242. No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and, on satisfactory proof that either of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

Compensation of registers and receivers, when to commence.
24 Feb., 1855, c. 124, s. 3, v. 10, p. 615

SEC. 2243. The compensation of registers and receivers, both for salary and commissions, shall commence and be calculated from the time they, respectively, enter on the discharge of their duties.

Duration of office of registers and receivers.
15 May, 1820, c. 102, s. 1, v. 3, p. 582.

SEC. 2244. All registers and receivers shall be appointed for the term of four years, but shall be removable at pleasure.

Monthly and quarterly returns of receivers.
4 July, 1836, c. 352, s. 9, v. 5, p. 111.

SEC. 2245. The receivers shall make to the Secretary of the Treasury monthly returns of the moneys received in their several offices, and pay over such money pursuant to his instructions. And they shall also make to the Commissioner of the General Land-Office like monthly returns, and transmit to him quarterly accounts-current of the debits and credits of their several offices with the United States.

Oath administered by registers and receivers.
12 June, 1840, c. 35, v. 5, p. 384.

SEC. 2246. The register or receiver is authorized, and it shall be their duty, to administer any oath required by law or the instructions of the General Land-Office, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath.

Penalty for false information by register.
4 July, 1836, c. 352, s. 13, v. 5, p. 112.

SEC. 2247. If any person applies to any register to enter any land whatever, and the register knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such register shall be liable therefor to the person so applying, for $5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

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* See note 2 at foot of the preceding page.

PRE-EMPTIONS.

Lands subject to pre-emption. 2 June, 1862, c., 94 s. 1, v. 12, p. 413.

SEC. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

Lands not subject to pre-emption. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to-wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Wilcox *vs.* Jackson, 13 Pet., 498; Josephs *vs.* U. S. 1 N. and H., 197; Turner *vs.* American Baptist Union, 5. McLean, 344; U. S. *vs.* Railroad Bridge Co., 6 McLean, 517; Russell *vs.* Beebe, Hemps, 704.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

Persons entitled to pre-emption. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land-office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

U. S. *vs.* Fitzgerald, 15 Pet., 407; Lytle *vs.* Arkansas, 9 How., 333; Cunningham *vs.* Ashley, 14 How., 377; Barnard's Heirs *vs.* Ashley's Heirs, 18 How., 41; Garland *vs.* Wynn, 20 How., 6; Harkness *vs.* Underhill, 1 Bl., 325; Witherspoon *vs.* Duncan, 4 Wall., 218.

Persons not entitled to pre-emption. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

SEC. 2260. The following class of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding sections, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

Limitation of pre-emption right. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455. 3 March, 1843, c. 86, s. 4, v. 5, p. 620.

SEC. 2261. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section twenty-two hundred and fifty-nine; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

Oath of pre-emptionist, where filed, penalty. 4 Sept., 1841, c. 16, s. 13, v. 5, p. 456.

SEC. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register* of the land district in which the land is situated that he has never had the benefit of any right of pre-emption under section twenty-two hundred and fifty-nine; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate

*Amended by act of June 9, 1880, (21 Stats., 169; Appendix No. 4.)

it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, for a valuable consideration, shall be null and void, except as provided in section twenty-two hundred and eighty-eight. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land-office of such district, and to transmit a duplicate copy to the General Land-Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

Proof of settlement; assignment of pre-emption rights.
4 Sept. 1841, c. 16, s. 12, v. 5, p. 456.
Lytle *vs.* Arkansas, 9 How., 333; Cunningham *vs.* Ashley, 14 How., 377; Barnard's Heirs *vs.* Ashley's Heirs, 18 How., 44; Garland *vs.* Wynn, 20 How., 6; Lytle *vs.* Arkansas, 22 How., 193; Harkness *vs.* Underhill, 1 Bl., 325; Lindsey *vs.* Hawse, 2 Bl., 554; Myers *vs.* Croft, 13 Wall., 291.

SEC. 2263 Prior to any entries being made under and by virtue of the provisions of section twenty-two hundred and fifty-nine, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

Statement to be filed by settler with intent to purchase, on lands subject to private entry.
4 Sept., 1841, c. 16, s. 15, v. 5, p. 457.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the date of such settlement, file with the register of the proper district a written statement, describing the land settled upon, and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

Claim filed by settler on land not proclaimed for sale.
3 March, 1843, c. 86, s. 5, v. 5, p. 620.
Johnson *vs.* Tawsley, 13 Wall., 72.

SEC. 2265. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the register of the proper land office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

Declaratory statement of settlers on unsurveyed land when filed.
30 May, 1862, c. 86, s. 7, v. 12, p. 410.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such pre-emption settlement.

Pre-emption claimants; time of making proof and payment.
14 July, 1870, c. 272, s. 2, v. 16, p. 279. 3 March, 1871, Res. 52, v. 16, p. 601.

SEC. 2267. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the land claimed within thirty months after the

date prescribed therein, respectively, for filing their declaratory notices has expired.

Extension of time in certain cases to persons in military and naval service. 21 March, 1864, c. 33, s. 5, v. 13, p. 35.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

Death before consummating claim; who to complete, etc. 3 March, 1843, c. 86, s. 2, v. 5, p. 620.

SEC. 2269. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of his heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

Non compliance with laws caused by vacancy in office of register or receiver not to affect, etc. 3 March, 1843, c. 86, s. 6, v. 5, p. 620.

SEC. 2270. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

No pre-emption of lands sold but not confirmed by Land Office. 26 Aug., 1842, c. 205, v. 5, p. 534.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land Office, on account of any alleged defect therein.

Purchase by private entry after expiration of pre-emption right. 3 March, 1843, c. 86, s. 9, v. 5, p. 621.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre-emption.

When more than one settler, rights of appeals to Commissioner. 4 Sept., 1841, c. 16, s. 11, v. 5, p. 456. 12 June, 1858, c. 154, s. 10, v. 11, p. 316. Barnard *vs.* Ashley, 18 How., 43; Garland *vs.* Wynn, 20 How., 6; Lindsey *vs.* Hawse, 2 Bl., 554; Minnesota *vs.* Batchelder, 1 Wall., 109; Johnson *vs.* Tawsley, 13 Wall., 72.

SEC. 2273. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of Interior.

Settlements of two or more persons on same subdivision before survey.
3 March, 1873, c. 283, s. 1, v. 17, p. 609.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States prior to the survey thereof, and it has been or shall be ascertained after the public surveys have been extended over such lands, that two or more settlers have impovements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making such contract, to file a declaratory statement in his own name, and prove up and pay for said land and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

Settlements before survey on sections 16 or 36, deficiencies thereof.
26 Feb., 1859, c. 58, v. 11, p. 385.

SEC. 2275. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

Selections to supply deficiencies of school lands.
26 Feb., 1859, c. 58, v. 11, p. 385. 20 May, 1826, c. 83, s. 1, v. 4, p. 179.

SEC. 2276. The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township or fractional township containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township containing a greater quantity of land than one-half, and not more than three-quarters, of a township, three-quarters of a section; for a fractional township containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter, of a township, one-quarter section of land.

Military bounty land-warrants receivable for pre-emption payments.
22 March, 1852, c. 19, s. 1, v. 10, p. 3.

SEC. 2277. All warrants for military bounty-lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents peracre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Agricultural-college scrip receivable in payment of pre-emptions.
1 July, 1870, c. 196, v. 16, p. 186.

SEC. 2278. Agricultural-college scrip, issued to any State under the act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty land-warrants, by the preceding section.

Pre-emption limit along railroad lines.
3 March, 1853, c. 143, v. 10, p. 244.

SEC. 2279. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

Pre-emption rights on lands received for grants found invalid. 3 March, 1853, c. 143, v. 10, p. 244.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

Pre-emption rights on lands reserved for railroads. 27 March, 1854, c. 25, v. 10, p. 269. 14 July, 1870, c. 272, s. 2, v. 16, p. 279.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

Sale of land not to be delayed, etc. 4 Sept., 1841, c. 16, s. 14, v. 5, p. 457.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

Certain lands in Kansas, how to be sold. 9 May, 1872, c. 149, s. 1, v. 17, p. 90.

SEC. 2283. The Osage Indian trust and diminished-reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres, or one-quarter section to each, in compact form, in accordance with the general principles of the pre-emption laws, under the direction of the Commissioner of the General Land Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township plat in the district office where such plat is not on file at date of settlement.

Transfer of above claims prior to, etc., subsequent right of entry. 9 May, 1872, c 149, s. 3, v. 17, p. 90.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

Pre-emption restrictions not to apply to certain lands in Kansas. 9 May, 1872, c. 149, s. 3, v. 17, p. 90.

SEC. 2285. The restrictions of the pre-emption laws, contained in sections twenty-two hundred and sixty and twenty-two hundred and sixty-one, shall not apply to any settler on the Osage Indian trust and diminished-reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

Pre-emption by counties or seats of justice. 25 May, 1824, c. 169, s. 1, v 4, p. 50

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which publiclands of the United States are sold, the right of pre-emption to one quarter-section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each such quarter-section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale ofthe adjoining lands within the county or parish for which the same is located.

Where claimant of entry becomes register or receiver. 20 April, 1871, c. 21, s. 16, v. 17, p. 10.

SEC. 2287. Any bona-fide settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter-section of the public lands in any district land-office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by law to the satisfaction of the Commissioner of the General Land Office.

Right of transfer of settlers under homestead or pre-emption laws for certain public purposes. Act of 3 March, 1873, c. 266, v. 17, p. 602.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, and for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

HOMESTEADS.

Who may enter certain unappropriated public lands. 20 May, 1862, c. 75, s. 1, v. 12, p. 392.

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section or a less quantity of unappropriated public lands, upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

Mode of procedure. 21 June, 1866, c. 127, s. 2, v. 14, p. 67. 20 May, 1862, c. 75, s. 2, v. 12, p. 392. 21 March, 1864, c. 38, s. 2, v. 13 p. 35.

SEC. 2290. The person applying for the benefit of the preceding section shall, upon application to the register of the land-office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Certificate and patent, when given and issued. 21 June, 1866, c. 127, s. 2, v. 14, p. 67.

SEC. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five

years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they, will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

When rights inure to the benefit of infant children. 21 June, 1866, c. 127, s. 2, v. 14, p. 67.

SEC. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

Persons in military or naval service, when and before whom to make affidavit. 21 March, 1864, c. 38, s. 4, v. 13, p. 35.

SEC. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

When persons may make affidavit before clerk of court. 21 March, 1864, c. 38, s. 3, v. 13, p. 35.

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

Record of applications. 20 May, 1862, c. 75, s. 3, v. 12, p. 393.

SEC. 2295. The register of the land office shall note all applications under the provisions of this chapter on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Homestead lands not to be subject to prior debts. 20 May, 1862, c. 75, s. 4, v. 12, p. 393.

SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

When lands entered for homestead revert to Government. 20 May, 1862, c. 75, s. 5, v. 12, p. 393.

SEC. 2297. If, at any time after the filing of the affidavit, as required in section twenty-two hundred and ninety, and before the expiration of the five years mentioned in section twenty-two hundred and ninety-one, it is proved,

after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: [*Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.]*

Limitation of amount entered for homestead.
20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2298. No person shall be permitted to acquire title to more than one quarter-section under the provisions of this chapter.

Existing pre-emption rights not impaired.
20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing pre-emption rights; and all persons who may have filed their applications for a pre-emption right prior to the twentieth day of May, eighteen hundred and sixty two, shall be entitled to all the privileges of this chapter.

What minors may have the privileges of this chapter.
20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of his chapter on account of not having attained the age of twenty-one years.

Payments before expiration of five years, rights of applicant.
20 May, 1862, c. 75, s. 8, v. 12, p. 393,

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights.†

No distinction [on account of race or color, etc.
21 June, 1866, c. 127, s. 1, v. 14, p. 67.

SEC. 2302. No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

21 June, 1866, c. 127, s. 1, v. 14, p. 67,
Repealed.
22 June, 1876, c. 165, v. 19, p. 73.

SEC. 2303. All the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of in no other manner than according to the terms and stipulations contained in the preceding provisions of this chapter.‡

Soldiers' and sailors' homestead.
8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United State by virtue of the third section of an act approved February thirteenth, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained

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* The portion within brackets is an amendment, added by act of March 3, 1881 (21 Stats., 511; Appendix No. 11).

† See act of June 9, 1880 (21 Stat., 169; Appendix No. 4.)

‡ Repealed by act of June 22, 1876.

loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter-section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public land along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.

Deduction of military and naval service from time, &c.
8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

Persons who have entered less than 160 acres, rights of.
8 June, 1872, c. 338, s. 2, v. 17, p. 333.

SEC. 2306. Every person entitled, under the provisions of section twenty-three hundred and four, to enter a homestead who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

Widow and minor children of persons entitled to homestead, etc.
8 June, 1872, c. 338, s. 3, v. 17, p. 333.

SEC. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section two thousand three hundred and four, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

Actual service in the Army or Navy equivalent to residence, etc.
8 June, 1872, c. 338, s. 4, v. 17, p. 333.

SEC. 2308. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

Who may enter by agent.
8 June, 1872, c. 338, s. 5, v. 17, p. 134.

SEC. 2309. Every soldier, sailor, marine, officer, or other person coming within the provisions of section two thousand three hundred and four, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement,

as in pre-emption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

Chiefs, etc., of Stockbridge Munsees, homestead rights of. 3 March, 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2310. Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians residing in the county of Shawano, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

Exemption of homestead of Stockbridge Munsees. 3 March, 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2311. The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner encumbered, except upon the decree of the district court of the United States, as provided in the following section:

Stockbridge Munsees becoming citizens. 3 March, 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2312. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section twenty-three hundred and ten, having filed with the clerk of the district court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

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PUBLIC SALES AND PRIVATE ENTRIES.

SEC. 2353. All the public lands, the sale of which is authorized by law, shall, when offered at public sale to the highest bidder, be offered in half quarter-sections.

SEC. 2354. All the public lands, when offered at private sale, may be purchased at the option of the purchaser in entire sections, half-sections, quarter-sections, half quarter-sections, or quarter quarter-sections.

SEC. 2355. Every person making application at any of the land-offices of the United States for the purchase at private sale of a tract of land shall produce to the register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half-section, quarter-section, half quarter-section, or quarter quarter-section as the case may be, and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.

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SEC. 2357. The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder who makes payment as provided in the preceding section shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land-office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: *Provided*, That the price to be paid for alternate reserved lands, along the line of railroads within the limits granted by any act of Congress, shall be two dollars and fifty cents per acre.

SEC. 2358. Whenever the President is authorized to cause the public lands, in any land district, to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times he may offer for sale in the same manner any other part, or the remainder of the land contained in the same.

SEC. 2359. The public lands which are exposed to public sale by order of the President shall be advertised for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

SEC. 2360. The public sales of lands shall, respectively, be kept open for two weeks, and no longer, unless otherwise specially provided by law.

REPAYMENTS.

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Purchase-money refunded where sale can not be confirmed. 12 Jan., 1805, c. 5, v. 4, p. 80. 28 Feb., 1859, c. 64, s. 1, v. 11, p. 387.

SEC. 2362. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale can not be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.*

Refunding in certain cases; how done. 28 Feb., 1859, c. 64, s. 2, v. 11, p. 388.

SEC. 2363. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase-money to the parties entitled thereto.

* * * * * * *

DEPOSITS FOR SPECIAL SURVEYS.

SEC. 2401. When the settlers in any township, not mineral or reserved by Government, desire a survey made of the same, under the authority of the surveyor-general, and file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it may be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township and make return

*Amended by act of June 16, 1880 (21 Stats., 287; Appendix No. 21).

thereof to the general and proper local land office, provided the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

SEC. 2402. The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

SEC. 2403. (As amended by act of March 3, 1879.) Where settlers make deposits in accordance with the provisions of section twenty-four hundred and one, the amount so deposited shall go in part payment for their lands situated in the townships, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by indorsement and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise. [*Provided*, That no certificate issued for a deposit of money for the survey of lands shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere; but this section shall not be held to impair, prejudice, or affect in any manner certificates issued or deposits and contracts made under the provisions of said act prior to the passage of this act.]*

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MILITARY BOUNTY LAND WARRANTS.

Military bounty-land warrants and locations assignable.

22 March, 1852, c. 19, s. 1, v. 10, p. 3.
3 June, 1858, c. 84, s. 2, v. 11, p. 309.

SEC. 2414. All warrants for military bounty lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing, made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

Warrants located at $1.25: excess paid in cash.

22 March, 1852; c. 19, s. 1, v. 10, p. 3.

SEC. 2415. The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

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* The portion within brackets is an amendment added by act of August 7, 1882.

SEC. 2437. It shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State or land district as the holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

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BOARD OF EQUITABLE ADJUDICATION.

Cases of "suspended entries of public lands" and "suspended pre-emption land claims."
26 June, 1856, c. 47, v. 11, p. 22. 3 Aug., 1846, c. 78, s. 1, v. 9, p. 51. 3 March, 1853, c. 152, s. 1, v. 10, p. 258.

SEC. 2450. The Commissioner of the General Land Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Treasury [Interior: see act February 27, 1877], the Attorney-General, and the Commissioner, conjointly, consistently with such principles, all cases of suspended entries of public lands and of suspended pre-emption land claims, and to adjudge in what cases patents shall issue upon the same.

Adjudications under above, how approved.
3 Aug., 1846, c. 78, s. 1, v. 9, p. 51.

SEC. 2451. Every such adjudication shall be approved by the Secretary of the Treasury and the Attorney-General, acting as a board; and shall operate only to divest the United States of the title of the lands embraced thereby, without prejudice to the rights of conflicting claimants.

Report of adjudications under preceding sections.
3 Aug., 1846, c. 78, s. 2, v. 9, p. 51.

SEC. 2452. The Commissioner is directed to report to Congress at the first session after any such adjudications have been made a list of the same under the classes prescribed by law, with a statement of the principles upon which each class was determined.

Decisions to be arranged into classes.
3 Aug., 1846, c. 78, s. 3, v. 9, p. 51.

SEC. 2453. The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

Patents to issue for lands in the first class, and lands in second class to revert to the United States.
3 Aug., 1846, c, 78, s. 4, v. 9, p. 51.

SEC. 2454. For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class shall ipso facto revert to, and become part of, the public domain.

Commissioner to order into market lands of second class.
3 Aug., 1846, c. 78, s. 5, v. 9, p. 51.

SEC. 2455. It may be lawful for the Commissioner of the General Land Office to order into market, after due notice, without the formality and expense of a proclamation of the President, all lands of the second class, though heretofore unproclaimed and unoffered, and such other isolated or disconnected tracts or parcels of unoffered lands which, in his judgment, it would be proper to expose to sale in like manner. But public notice of at least thirty days shall be given by the land officers of the district in which such lands may be situated, pursuant to the directions of the Commissioner.

Patents surrendered and new ones issued in certain cases
3 March, 1853, c. 152, s. 2, v. 10, p. 258.

SEC. 2456. Where patents have been already issued on entries which are confirmed by the officers who are constituted the board of adjudication, the Commissioner

of the General Land Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry, his heirs or assigns.

Extent of foregoing provisions. 26 June, 1856, c. 47, v. 11, p. 22.

SEC. 2457. The preceding provisions, from section twenty-four hundred and fifty to section twenty-four hundred and fifty-six, inclusive, shall be applicable to all cases of sus pended entries and locations, which have arisen in the General Land Office since the twenty-sixth day of June, eighteen hundred and fifty-six, as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty land-warrants as ordinary entries or sales, including homestead entries and pre-emption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or pre-emptor are prejudiced, or where there is no adverse claim.

[The rules and regulations of the board of equitable adjudication will be found printed hereinafter. See Appendix No. 33.]

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CERTIFIED COPIES.

SEC. 2469. The Commissioner of the General Land Office shall cause to be prepared, and shall certify, under the seal of the office, such copies of records, books, and papers on file in his office as may be applied for, to be used in evidence in courts of justice. (See secs. 461 and 891.)

SEC. 2470. Literal exemplifications of any records which have been or may be granted in virtue of the preceding section shall be deemed of the same validity in all proceedings, whether at law or in equity, wherein such exemplifications are adduced in evidence, as if the names of the officers signing and countersigning the same had been fully inserted in such record. (Secs. 461, 891.)

* * * * * * *

APPROPRIATE REGULATIONS.

Power of Commissioner of Land Office to enforce this title.

SEC. 2478. The Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this title not otherwise specially provided for.

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[No. 2.]

PENALTY OF PERJURY.

AN ACT to provide for the punishment of certain crimes against the United States.

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SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit shall be made or taken before any person authorized by the laws

of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States, in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States.

Approved March 3, 1857. (11 Stat., 250.)

REVISED STATUTES, SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

[No. 3.]

HOMESTEAD PROOF.

AN ACT to amend section twenty-two hundred and ninety-one of the Revised Statutes of the United States, in relation to proof required in homestead entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by section twenty-two hundred and ninety-one of the Revised Statutes of the United States, may be made before the judge, or in his absence, before the clerk of any court of record of the county and State, or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, witht he fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

SEC. 2. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

Approved March 3, 1877. (19 Stat., 403.)

[No. 4.]

PRE-EMPTION AND HOMESTEAD-COMMUTATION AFFIDAVITS.

AN ACT to amend sections twenty-two hundred and sixty-two and twenty-three hundred and one of the Revised Statutes of the United States, in relation to the settler's affidavit in pre-emption and commuted homestead entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the affidavit required to be made by sections twenty-two hundred and sixty-two and twenty-three hundred and one of the Revised Statutes of the United States, may be made before the clerk of the county court or of any court of record, of the county and State or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county, such affidavit may be made in a similar manner in any adjacent county in said State or Territory, and the affidavit so made and duly subscribed shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such clerk of the court to the register and receiver with the fee and charges allowed by law.

Approved June 9, 1880. (21 Stat., 169.)

[No. 5.]

FINAL PROOF NOTICE.

AN ACT to provide additional regulations for homestead and pre-emption entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption or homestead entries, such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice the register shall publish a notice, that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Approved March 3, 1879. (20 Stat., 472.)

[No. 6.]

CHANGE OF PRE-EMPTION FILING TO HOMESTEAD ENTRY.

AN ACT for the relief of settlers on the public lands under the pre-emption laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has made a settlement on the public lands under the pre-emption laws, and has subsequent to such settlement changed his filing in pursuance of law to that for a homestead entry upon the same tract of land, shall be entitled, subject to all the provisions of the law relating to homesteads, to have the time required to perfect his title under the homestead laws computed from the date of his original settlement heretofore made, or hereafter to be made, under the pre-emption laws.

Approved June 14, 1878. (20 Stat., 113.)

[No. 7.]

RELINQUISHMENTS—CONTESTANT'S PREFERENCE—HOMESTEAD SETTLEMENTS.

AN ACT for the relief of settlers on public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

SEC. 2. In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any pre-emption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

SEC. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws.

Approved May 14, 1880. (21 Stat., 140.)

[No. 8.]

SETTLERS WHO BECOME INSANE.

AN ACT to provide for issuing patents for public lands claimed under the pre-emption and homestead laws, in cases where the settlers have become insane.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which parties

who regularly initiated claims to public lands as settlers thereon according to the provisions of the pre-emption or homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirements in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

Approved June 8, 1880. (21 Stat., 166.)

[No. 9.]

INJURY OR DESTRUCTION OF CROPS BY GRASSHOPPERS.

AN ACT for the relief of settlers on the public lands in districts subject to grasshopper incursions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for homestead and pre-emption settlers on the public lands, and in all cases where pre-emptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by preemptors whose crops shall have been destroyed or injured as aforesaid may, in the discretion of the Commissioner of the General Land Office, be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March third, eighteen hundred and seventy-three, and the acts amendatory thereof.

Approved July 1, 1879. (21 Stat., 48.)

[No. 10.]

CLIMATIC HINDRANCES.

AN ACT to amend section 2297 of the Revised Statutes, relating to homestead settlers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section numbered twenty-two hundred and ninety-seven, of title numbered thirty-two, be amended

by adding thereto the following proviso, namely: *Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.

Approved March 3, 1881. (21 Stat., 511.)

[No. 11.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved March 3, 1879. (20 Stat., 472.)

[No. 12.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits in the States of Missouri and Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad, where the even sections have been granted to and received by any railroad com-

pany or by such States respectively in aid of any railroad, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved July 1, 1879. (21 Stat., 46.)

[No. 13.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to protect homestead settlers within railway limits and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land, who have heretofore made or may hereafter make the additional entry allowed either by the act approved March third, eighteen hundred and seventy-nine, or the act approved July first, eighteen hundred and seventy-nine, after having made final proof of settlement and cultivation under the original entry, shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation.

Approved, May 6, 1886. (24 Stat., 22.)

[No. 14.]

SETTLERS ON RESTORED RAILROAD LANDS.

AN ACT for the relief of certain settlers on restored railroad lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who shall have settled and made valuable and permanent improvements upon any odd-

numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the pre-emption, homestead, or timber-culture acts of the United States, shall be permitted at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of two dollars and fifty cents per acre, and to receive patents therefor

Approved January 13, 1881. (21 Stat., 315.)

[No. 15.]

TIMBER TRESPASS CONDONED—PURCHASE BY HOMESTEAD CLAIMANTS—REDUCTION OF PRICE—ACT OF JUNE 15, 1880.

AN ACT relating to the public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any lands of the United States shall have been entered and the Government price paid therefor in full no criminal suit or proceeding by or in the name of the United States shall thereafter be had or further maintained for any trespasses upon or for or on account of any material taken from said lands and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim or for agricultural or domestic purposes or for maintaining improvements upon the land of any bona fide settler or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed and conspiracies entered into prior to March first, eighteen hundred and seventy-nine: *And provided further*, That defendants in such suits or proceedings shall exhibit to the proper courts or officer the evidence of such entry and payment and shall pay all costs accrued up to the time of such entry.

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the right of those having so entered for homesteads, may have been attempted to be transferred by bona fide instrument in writing, may entitle themselves to said lands by paying the Government price therefor, and in no case less than one dollar and twenty-five cents per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in nowise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

SEC. 3. That the price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty-one, by reason of the grant of alternate sections for railroad purposes is hereby reduced to one dollar and twenty-five cents per acre.

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine, shall be entitled to the benefit thereof.

Approved June 15, 1880. (21 Stat., 237.)

[No. 16.]

INDIAN HOMESTEADS.

AN ACT making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-five, and for other purposes.

* * * * * * *

That such Indians as may now be located on public lands, or as may under the direction of the Secretary of the Interior, or otherwise, hereafter so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States; and to aid such Indians in making selections of homesteads and the necessary proofs at the proper land offices, one thousand dollars, or so much thereof as may be necessary, is hereby appropriated; but no fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State or Territory where such land is located, and at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

Approved July 4, 1884. (23 Stat., 96.)

[No. 17.]

TIMBER CULTURE.

AN ACT to amend an act entitled "An act to encourage the growth of timber on the Western Prairies."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to amend the act entitled 'An act to encourage the growth of timber on Western Prairies,'" approved March thirteenth, eighteen hundred and

seventy-four, be, and the same is hereby, amended so as to read as follows: That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect, and keep in a healthy, growing condition for eight years ten acres of timber, on any quarter-section of any of the public lands of the United States, or five acres on any legal subdivision of eighty acres, or two and one-half acres on any legal subdivision of forty acres or less, shall be entitled to a patent for the whole of said quarter-section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible witnesses, and a full compliance of the further conditions as provided in section two: *Provided further*, That not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this act.

SEC. 2. That the person applying for the benefits of this act shall, upon application to the register of the land district in which he or she is about to make such entry, make affidavit, before the register or the receiver, or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to wit: I, ——— ———, having filed my application, number ——, for an entry under the provisions of an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" approved ——— —, eighteen hundred and seventy-——, do solemnly swear (or affirm) that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act, and that I have not heretofore made an entry under this act, or the acts of which this is amendatory. And upon filing said affidavit with said register and said receiver, and on payment of ten dollars if the tract applied for is more than eighty acres, and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter-section under the provisions of this act shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise the five acres broken the second year, and to plant in timber, seeds, or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds, or cuttings the remaining five acres. All entries of less quantity than one quarter-section shall be plowed, planted, cultivated and planted to trees, tree-seeds, or cuttings, in the same manner and in the same proportion as hereinbefore provided for a quarter-section: *Provided, however*, That in case such trees, seeds, or cuttings shall be destroyed by grasshoppers, or by extreme and unusual drouth, for any year or

term of years, the time for planting such trees, seeds, or cuttings shall be extended one year for every such year that they are so destroyed: *Provided further*, That the person making such entry shall, before he or she shall be entitled to such extension of time, file with the register and the receiver of the proper land office an affidavit, corroborated by two witnesses, setting forth the destruction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this act: *And provided further*, That no final certificate shall be given, or patent issued, for the land so entered, until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this act, then and in that event such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this act: *Provided*, That the party making claim to said land, either as a homestead settler or under this act, shall give, at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land Office; and the rights of the parties shall be determined as in other contested cases.

SEC. 4. That no land acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

SEC. 5. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall each be entitled to receive two dollars at the time of entry, and the like sum when the claim is finally established and the final certificate issued.

SEC. 6. That the fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

SEC. 7. That parties who have already made entries under the acts approved March third, eighteen hundred and seventy-three, and March thirteenth, eighteen hundred and seventy-four, of which this is amendatory, shall be permitted to complete the same upon full compliance with the provisions of this act; that is, they shall, at the time of making their final proof, have had under cultivation, as required by this act, an amount of timber sufficient to make the number of acres required by this act.

SEC. 8. All acts and parts of acts in conflict with this act are hereby repealed.

Approved, June 14, 1878. (20 Stat., 113.)

[No. 18.]

TIMBER AND STONE ENTRIES.

AN ACT for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided*, That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona-fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land-office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land-office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase-money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * * * *

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved June 3, 1878. (20 Stat., 89.)

[No. 19.]

DESERT LANDS.

AN ACT to provide for the sale of desert lands in certain States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre, to file a declaration, under oath, with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same within the period of three years thereafter: *Provided, however*, That the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water

of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and if unsurveyed shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

SEC. 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land-office in which said tract of land may be situated.

SEC. 3. That this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Approved March 3, 1877. (19 Stat., 377.)

[No. 20.]

SALT SPRINGS.

AN ACT providing for the sale of saline lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made appear to the register and the receiver of any land-office of the United States that any lands within their district are saline in character, it shall be the duty of said register and said receiver, under the regulation of the General Land Office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land Office; and if, upon such testimony, the Commissioner of the General Land Office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land-office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land Office, and sold to the highest bidder for cash at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale at such land-office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold: *Provided*, That the foregoing enactments shall not apply to

any State or Territory which has not had a grant of salines by act of Congress, nor to any State which may have had such a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quit-claim of all title of the United States in such lands.

SEC. 2. That all executive proclamations relating to the sales of public lands shall be published in only one newspaper, the same to be printed and published in the State or Territory where the lands are situated, and to be designated by the Secretary of the Interior.

Approved January 12, 1877. (19 Stat., 221.)

[No. 21.]

REPAYMENTS.

AN ACT for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase money, and commissions paid on void entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March third eighteen hundred and seventy-three, and now incorporated in section twenty-three hundred and six of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

SEC. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and can not be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excess paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to the heirs or assigns.

SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.

Approved June 16, 1880. (21 Stat., 287.)

[No. 22.]

REGISTERS AND RECEIVERS' FEES.

AN ACT in relation to certain fees allowed registers and receivers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fees allowed registers and receivers for testimony reduced by them to writing for claimants, in establishing pre-emption and homestead rights and mineral entries, and in contested cases, shall not be considered or taken into account in determining the maximum of compensation of said officers.

SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office; and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed ten cents per entry; and the sums thus received for plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers.

Approved March 3, 1883. (22 Stat., 484.)

[No. 23.]

REGISTERS' AND RECEIVERS' FEES.—ACTS OF AUGUST 4, 1886, AND MARCH 3, 1887.

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Hereafter all fees collected by registers or receivers, from any source whatever, which would increase their salaries beyond three thousand dollars each a year shall be covered into the Treasury, except only so much as may be necessary to pay the actual cost of clerical services employed exclusively in contested cases; and they shall make report quarterly, under oath, of all expenditures for such clerical services, with vouchers therefor.

Act approved August 4, 1886 (24 Stats., 239), and act approved March 3, 1887 (*Id.*, 526).

[No. 24.]

OWNERSHIP OF REAL ESTATE IN THE TERRITORIES AND THE DISTRICT OF COLUMBIA.

AN ACT to restrict the ownership of real estate in the Territories to American citizens, and so forth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person or persons not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the Territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer.

Territories.

Alien persons or corporations prohibited from acquiring real estate in.

Exception.

Proviso.

Treaty rights not impaired.

SEC. 2. That no corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the Territories of the United States or of the District of Columbia.

Corporation having more than 20 per cent. of stock held by aliens prohibited from holding real estate.

SEC. 3. That no corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall acquire, hold, or own more than five thousand acres of land in any of the Territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire, hold, or own lands in any Territory, other than as may be necessary for the proper operation of its railroad, canal, or turnpike, except such lands as may have been granted to it by act of Congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

Maximum of land which may be held by corporations.

Congressional grants.

Present titles not affected.

SEC. 4. That all property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney-General to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned.

Property unlawfully held to be forfeited.

Suits.

Approved, March 3, 1887. (24 Stat., 476.)

[This act amended so that it shall not apply to or operate in the District of Columbia, so far as regards the ownership of legations, or the ownership of residences, by representatives of foreign Governments, or attachés thereof, by Act of March 9, 1888, pamphlet statutes, page 45.]

[No. 25.]

LANDS IN ALASKA.

AN ACT providing a civil government for Alaska.

* * * * * * *

SEC. 8. That the said district of Alaska is hereby created a land district, and a United States land-office for said district is hereby located at Sitka. The commissioner provided for by this act to reside at Sitka shall be ex officio register of said land-office, and the clerk provided for by this act shall be ex officio receiver of public moneys, and the marshal provided for by this act shall be ex officio surveyor-general of said district and the laws of the United States relating to mining claims, and the rights incident thereto, shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: *Provided*, That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: *And provided further*, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: *And provided also*, That the land not exceeding six hundred and forty acres at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. But nothing contained in this act shall be construed to put in force in said district the general land laws of the United States.

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Approved May 17, 1884. (23 Stat., 24.)

[No. 26.]

PRIVATE LAND CLAIM INDEMNITY SCRIP.

AN ACT defining the manner in which certain land-scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United

States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this act; and said certificate of location or scrip shall be subdivided according to the request of the confirmee or confirmees, and as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims in the same manner and to the same extent as is now authorized by law in the case of military bounty land-warrants.

SEC. 3. That the register of the proper land-office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

SEC. 4. That the provisions of this act respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity certificates of location provided for by the act of the second of June, eighteen hundred and fifty-eight, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."

Approved January 28, 1879. (20 Stat., 274.)

[No. 27.]

OSAGE TRUST AND DIMINISHED RESERVE LANDS.

AN ACT for the relief of settlers upon the Osage trust and diminished-reserve land in Kansas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all actual settlers under existing laws upon the Osage Indian trust and diminished reserve lands in Kansas (any failure to comply with such existing laws notwithstanding) shall be allowed sixty days after a day to be fixed by public notice by advertisement in two newspapers in each of the proper land districts, which day shall not be later than ninety days after the passage of this act, within which to make proof of their claims, and to pay one-fourth the purchase price thereof, and the said parties shall pay the

balance of said purchase price in three equal annual installments thereafter: *Provided*, That nothing herein contained shall be construed to prevent an earlier payment of the whole or any installment of said purchase money as aforesaid.

And if default be made by any settler in the payment of any portion or installment at the time it becomes due under the foregoing provisions, his entire claim, and any money he may have paid thereon, shall be forfeited, and the land shall, after proper notice, be offered for sale according to the terms hereinafter prescribed, unless before the day fixed for such offering, the whole amount of purchase money shall be paid by said claimant, so as to entitle him to receive his patent for the tract embracing his claim.

SEC. 2. That all the said Indian lands remaining unsold and unappropriated and not embraced in the claims provided for in section one of this act, shall be subject to disposal to actual settlers only, having the qualifications of pre-emptors on the public lands. Such settlers shall make due application to the register with proof of settlement and qualifications as aforesaid; and, upon payment of not less than one-fourth the purchase-price shall be permitted to enter not exceeding one quarter section each, the balance to be paid in three equal installments, with like penalties, liabilities and restrictions as to default and forfeiture as provided in section one of this act.

SEC. 3. All lands upon which such default has continued for ninety days shall be placed upon a list, and the Secretary of the Interior shall cause the same to be duly proclaimed for sale in the manner prescribed for the offering of the public lands, but not exceeding one quarter section shall be sold to any one purchaser, at a price not less than the price fixed by law, but such lands, upon which such default shall be made, shall be offered for sale by advertisement of not less than thirty days in two newspapers in the proper land districts respectively and unless the purchase price be fully paid before the day named in the notice, shall be sold for cash to the highest bidder at not less than the price fixed by law. And all such lands, subject to unpaid overdue installments, shall be so offered once every year. And if any of said lands shall remain unsold after the offering as aforesaid, they shall be subject to private entry, for cash in tracts not exceeding one quarter section by one purchaser.

SEC. 4. After the payment of the first installment as hereinafter provided for, such lands shall be subject to taxation according to the laws of the State of Kansas, as other lands are or may be in said State: *Provided*, That no sale of any such lands for taxes shall operate to deprive the United States of said lands, or any part of the purchase-price thereof, but if default be made in any installment of the purchase-price as aforesaid, such tax-sale purchaser, or his or her legal representatives, may, upon the day fixed for the public sale, and after such default has become final, under the foregoing provisions, pay so much of said purchase-price as may remain unpaid, and shall thereupon be entitled to receive a patent for the same as though he had made due settlement thereon: *And provided further*, That nothing in this act shall be so construed as to deprive or impair the right of the settler, of the right of redemption under the revenue laws of the State of Kansas.

SEC. 5. That the register and the receiver shall be allowed the same fees and commissions as are allowed by law for the disposal of the public lands, and the net proceeds of the sales and disposals after deducting the expenses of such disposals, shall be deposited to the credit of the proper Indian fund, as provided by existing laws; and the See-

retary of the Interior shall make all rules and regulations necessary to carry into effect the provisions of this act.

SEC. 6. That nothing in this act shall be construed to interfere in any manner with the operation of the town-site laws as applicable to these lands: *Provided*, That all claims for entry under said statutes shall be proved up and fully paid for, before the day fixed for the commencement of the public sales provided for in section three of this act.

SEC. 7. In all cases arising under this act interest at the rate of five per centum per annum shall be computed and paid upon all that part of the purchase-money in respect to which time is given for the payment of the same.

Approved May 28, 1880. (21 Stat., 143.)

[No. 28.]

LOSS OR FAILURE OF CROPS FROM UNAVOIDABLE CAUSE IN 1879 OR 1880 IN KANSAS AND NEBRASKA.

AN ACT for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for homestead and pre-emption settlers on the public lands or pre-emption settlers upon Indian reservations in the States of Kansas and Nebraska west of the sixth principal meridian, where there has been a loss or failure of crops from unavoidable cause, in the year of eighteen hundred and seventy-nine or eighteen hundred and eighty, to leave and be absent from said lands until the first day of October, eighteen hundred and eighty-one, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office may prescribe; and during said absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by such pre-emptors is hereby extended for one year after the expiration of the term of absence provided for in the first section of this act; but in cases where the purchase-money is by law payable in installments, the first unpaid installment shall be held not to be due until one year after the expiration of the leave of absence aforesaid.

Approved June 4, 1880. (21 Stat., 543.)

[No. 29.]

SPECIAL SURVEY DEPOSITS.

AN ACT to amend section twenty-four hundred and three of the Revised Statutes of the United States, in relation to deposits for surveys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and three of the Revised Statutes of the United States be, and is hereby, amended so as to read as follows:

SEC. 2403. Where settlers make deposits in accordance with the provisions of section twenty-four hundred and one, the amount so de-

posited shall go in part payment for their land situated in the townships, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by indorsement, and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise.

Approved, March 3, 1879. (20 Stat., 352.)

[No. 30.]

SPECIAL SURVEY DEPOSITS.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes.

* * * * * * *

Provided further, That no certificate issued for a deposit of money for the survey of lands under section twenty-four hundred and three of the Revised Statutes, and the act approved March third, eighteen hundred and seventy-nine, amendatory thereof, shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere; but this section shall not be held to impair, prejudice, or affect in any manner certificates issued or deposits and contracts made under the provisions of said act prior to the passage of this act.

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Approved, August 7, 1882. (22 Stat., 327.)

[No. 31.]

ADJUSTMENT OF RAILROAD LAND GRANTS.

AN ACT to provide for the adjustment of land grants made by Congress to aid in the construction of railroads, and for the forfeiture of unearned lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby authorized and directed to immediately adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and heretofore unadjusted.

SEC. 2. That if it shall appear, upon the completion of such adjustments respectfully, or sooner, that lands have been, from any cause, heretofore erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid de-

mand shall have been made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.

SEC. 3. That if, in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

SEC. 4. That as to all lands, except those mentioned in the foregoing section, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land-office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney-General shall cause suit or suits to be brought against such company for the said amount: *Provided*, That nothing in this act shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase-money therefor from the grantee company, less the amount paid to the United States by such company as by this act required: *And provided*, That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of this act, nor shall this act be construed as a declaration of forfeiture of any portion of any land-grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions.

SEC. 5. That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Govern-

ment price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided*, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the pre-emption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said pre-emption and homestead claimants shall be permitted to perfect their proofs and entries and receive patents therefor: *Provided further*, That this section shall not apply to lands settled upon subsequent to the first day of December, eighteen hundred and eighty-two, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

SEC. 6. That where any such lands have been sold and conveyed, as the property of any railroad company, for the State and county taxes thereon, and the grant to such company has been thereafter forfeited, the purchaser thereof shall have the prior right, which shall continne for one year from the approval of this act, and no longer, to purchase such lands from the United States at the Government price, and patents for such lands shall thereupon issue. *Provided*, That said lands were not, previous to or at the time of the taking effect of such grant, in the possession of or subject to the right of any actual settler.

SEC. 7. That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which said State corporation or individual would be rightfully entitled.

Approved, March 3, 1887. (24 Stat., 556.)

[No. 32.]

RE-IMBURSEMENT FOR FAILURE OF TITLE IN NEBRASKA AND KANSAS.

AN ACT for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of re-imbursing persons, and the grantees, heirs, and devisees of persons, who, under the homestead, pre-emption, or other laws, settled upon or purchased lands within the grant made by an act entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph," approved July twenty-third, eighteen hundred and sixty-six, and to whom patents have been issued therefor, but against which persons, or their grantees, heirs, or devisees, decrees have been or may hereafter be rendered by the United States circuit courts on account of the priority of said grant made in the act above entitled, the sum of two hundred and fifty thousand dollars, or so much thereof as shall be required for said purpose, is hereby appropriated: *Provided*, *however*, That no part of said sum shall be paid to any one of said parties until he shall have filed with

the Secretary of the Interior a copy of the said decree, duly certified, and also a certificate of the judge of said court rendering the same to the effect that such a decree was rendered in a bona fide controversy between a plaintiff showing title under the grant made in said act and a defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said act to the filing, settlement, or purchase by the defendant or his grantor; and said claimant shall also file with the said decree and certificate a bill of the costs in such case, duly certified by the judge and clerk of said court. Thereupon it shall be the duty of the Secretary of the Interior to adjust the amount due to each defendant on the basis of what he shall have paid, not exceeding three dollars and fifty cents per acre for the tract, his title to which shall have failed as aforesaid, and the costs appearing by the bill thereof so certified as hereinbefore provided. He shall then make a requisition upon the Treasury for the sum found to be due to such claimant, or his heirs and devisees or assigns, and shall pay the same to him, taking such release, acquittance, or discharge as shall forever bar any further claim against the United States on account of the failure of the title as aforesaid: *Provided further*, That when any person, his grantees, heirs, assigns, or devisees, shall prove to the satisfaction of the Secretary of the Interior that his case is like the case of those described in the preceding portions of this act, except that he has not been sued and subjected to judgment as hereinbefore provided, and that he has in good faith paid to the person holding the prior title by the grant herein referred to the sum demanded of him, without litigation, such Secretary shall pay to such person such sum as he has so paid, not exceeding three dollars and fifty cents per acre, taking his release therefor as hereinbefore provided.

SEC. 2. That the provisions of this act shall only apply to the actual and bona fide settlers on the lands herein referred to, his or their heirs, assigns, or legal representatives, and no one person shall be entitled to the benefits of this act for compensation for more than one hundred and sixty acres of land: *Provided*, That all other persons who purchased any part of said land at one dollar and twenty-five cents per acre, and the money was actually paid into the Treasury, such person, his heirs, assigns, or legal representatives shall be entitled to repayment of the money so actually paid by them.

Approved, March 3, 1887. (24 Stat., 550.)

[No. 33.]

SUSPENDED ENTRIES.

RULES AND REGULATIONS—BOARD OF EQUITABLE ADJUDICATION.

Under the act of Congress approved August 3, 1846, entitled "An act providing for the adjustment of all suspended pre-emption land claims in the several States and Territories," the following general equitable rules and regulations were established for the government of the Commissioner of the General Land Office.

The Commisioner will recognize as valid, and place in the first class, suspended entries of the following description:

1. All pre-emption entries in which one or more legal requirements do not appear in the papers because of the neglect or inattention of the

land officers, but where the existing testimony shows a substantial and bona fide settlement and improvement of the lands; or where such facts were satisfactorily shown to the local officers, by proof which was lost in transmission to the General Land Office, and can not now be renewed by reason of the death of witnesses, or other cause.

2. All pre-emption entries under the acts of 12th April, 1814, 29th May, 1830, 5th April, 1832, 19th June, 1834, 22d June, 1838, and 1st of June, 1840, which have been allowed in the name of assignees, instead of the pre-emptors themselves, where the claim is bona fide, and the assignees or subsequent purchasers are in possession.

3. All entries in virtue of "floats," under the acts of 29th of May, 1830, and 19th June, 1834, where the *original settlement* (from which the "float" was derived) was bona fide and had been actually entered, but where such *original settlement* was on land reserved for private claims the survey of which had not been returned at the time of entry; and also all entries by such "floats" on land liable to sale, where the "float" entries had been made prior to the return of the official plat of survey for the original settlement.

4. Entries allowed by pre-emption on "sketch maps" (obtained by the parties), before the return of the regular approved plat of the township embracing the land.

5. All entries allowed by pre-emption on land which was reserved at the date of the pre-emption act, but which was released from reservation before the expiration of said act, where such entries are in other respects regular.

6. Pre-emption entries under laws requiring actual residence on public land, in which the residence was found to be on private property, but where the tract entered formed a substantial part of the farm of the claimant, and was improved and cultivated by him at the period required for residence.

7. Pre-emption entries of legal subdivisions of a fractional section which contain more than 160 acres, but which are as near that quantity as the existing subdivisions will allow.

8. Pre-emption entries allowed under one pre-emption law, where it shall have been discovered that said entries are invalid under that act, but where the settlement and improvement is of a character to have entitled the parties to a legal and valid claim under a subsequent law, provided the land is not embraced by the valid claim of another.

9. Pre-emption entries in the mineral region, embracing the half of a quarter-section reserved for mineral purposes, where the half-quarter so entered is shown not to have contained mineral; and also entries as "floats," allowed to the claimants, who, by reason of one portion of the quarter-section on which they were settled containing mineral, were unable to enter more than the half of said quarter-section, provided the claim is otherwise a bona fide one.

10. Pre-emption entries founded upon a bona fide right of pre-emption, where, as it respects the mode and manner of the entry, there is not a strict conformity with the law, but where such entry does not embrace a quantity exceeding that allowed by law, is in accordance with the wish of the party or parties interested and does not interfere with the rights or interests of another.

11. All private sales of tracts which have not been previously offered at public sale, but where the entry appears to have been permitted by land officers under the impression that the land was liable to private entry, and there is no reason to presume fraud, or to believe that the purchase was made otherwise than in good faith.

12. All sales made at one land office of lands which were only liable to sale at another, where the proceedings in all other respects were regular.

13. All bona fide entries on lands which had been once offered, but afterwards temporarily withdrawn from market, and then released from reservation, where such lands are not rightfully claimed by others.

14. All bona fide entries at private sale, allowed at Mineral Point, Wis., and fully paid for, of lands which were not ascertained or reported to contain lead mineral until after the date of said entries, where the land is not rightfully claimed by another.

The foregoing regulations are not to embrace any case where the entry has been canceled or desired by the party, or where a subsequent entry of the same land has been legally made by the claimant himself, or by another person.

JAMES L. PIPER,
Acting Commissioner of the General Land Office.

We concur in these rules and regulations, October 3, 1846.

R. J. WALKER,
Secretary of the Treasury.
J. Y. MASON,
Attorney-General.

* * * * * * *

[Rule 15, having become obsolete, is omitted.]

* * * * * * *

Under the act of Congress approved 3d of March, 1853, reviving and continuing in force the act of 3d of August, 1846, the following rule was established for the government of the Commissioner of the General Land Office:

16. That all locations under the act of 14th August, 1848, entitled "An act in relation to military land warrants," be confirmed, and patents issued thereon, where the land located lies in one body, and the only objection to the location is, that it consists, technically, of more than one legal subdivision.

JOHN WILSON,
Commissioner.

We concur in this rule, 16th March, 1854.

R. MCCLELLAND,
Secretary of the Interior.
C. CUSHING,
Attorney-General.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 25, 1877.

SIR: I have the honor to submit herewith, for your concurrence and that of the honorable Attorney-General, a set of rules to govern me in submitting for confirmation, under section 2450 of the Revised Statutes of the United States, entries suspended for various causes, but which, upon principles of equity and justice, should be confirmed.

Authority to confirm suspended entries of the public lands was first vested in the Secretary of the Treasury, Attorney-General, and Commissioner of the General Land Office, by act of Congress of August 3, 1846, and revised and extended by acts of 3d of March, 1853, and 26th of June, 1856.

Under these acts, from time to time, sixteen rules have been established, the last March 16, 1854. (See 1 Lester, Land Laws, 482, title 5.)

Since then the different homestead acts have been passed, and new classes of suspended entries under the pre-emption laws have arisen. I have prepared eleven new rules, from No. 17 to 27, inclusive. I find that many of the old established rules are obsolete.

* * * * * * *

Cases in each of the classes mentioned, except class 22, have been confirmed under section 2450 of the Revised Statutes.

It is believed that these classes will cover all agricultural entries falling under general rules.

Special cases not covered by these rules, in which equitable relief should be afforded, will probably arise. Such cases will be submitted as special, with letters of explanation.

I respectfully request that, if you should approve the accompanying rules, you will submit them to the honorable Attorney-General for his concurrence.

J. A. WILLIAMSON,
Commissioner.

Hon. CARL SCHURZ,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 18, 1877.

SIR: I return herewith, approved by the Attorney-General and myself, the additional rules transmitted with your letter of the 25th ultimo, numbered from 17 to 27, inclusive, to govern your office in the disposal of suspended entries of public lands under various laws.

I am, sir, very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

Hon. J. A. WILLIAMSON,
Commissioner General Land Office.

ADDITIONAL RULES.

Under section 2450 of the Revised Statutes of the United States, the following rules, additional to those established under the act of August 3, 1846, are provided for the government of the Commissioner of the General Land Office:

17. All entries where the pre-emption affidavit was taken before an officer authorized to administer oaths, when, on account of bodily infirmity, the party can not appear at the local office.

18. All entries where the pre-emption affidavit was taken before some officer other than the register or receiver, and the pre-emptor died before the defect could be cured.

19. All entries made upon land appropriated by entry or selection, but which entry or selection was subsequenty canceled for illegality.

20. Pre-emption entries in which the party has shown good faith, but did not, through ignorance of the law, declare his intention to become a citizen of the United States until after he made his entry.

21. All entries based upon pre-emption proof where the party had failed to file a declaratory statement therefor, provided no adverse claim attached prior to entry.

22. All entries of unoffered land, based upon a second delaratory statement, where the same was filed between June 22, 1874, and June 30, 1875.

23. All pre-emption entries in which the affidavit is defective in not showing that the party was not the owner of 320 acres of land in any State or Territory, and had never had the benefit of the act, the form for which affidavit was furnished by the local land office.

24. All homestead entries in which, by reason of ignorance of the law, sickness of the party or his family, the final proof was not made within the period prescribed by statute, but in other respects the law has been complied with.

25. All homestead entries in which the party failed to settle on the land within the time required by law by reason of physical disability, and where good faith is shown.

26. All homestead entries by mistake made in the name of the wrong party, but where on final proof the error may be corrected without prejudice to another's right.

27. In all homestead entries where the husband has deserted his wife and children, if he have any, who have in good faith complied with the homestead law by residence upon and cultivation of the land, and final proof shall be made by the wife, or, in case of her death, by her heirs or their legal guardians, such entry shall be confirmed, and patent shall issue to the parties entitled thereto.

J. A. WILLIAMSON,
Commissioner General Land Office.

We concur in the above rules, May 8, 1877.

C. SCHURZ,
Secretary of the Interior.
CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 28, 1888.

The following rules are hereby established, with the concurrence of the Secretary of the Interior and Attorney-General, as additional to the regulations in accordance with which suspended claims are decided under sections 2450 to 2457, Rev. Stats., as amended by the act of Congress of February 27, 1877, viz:

28. All desert-land entries made by a duly qualified party under the act of March 3, 1877, where the land was properly subject to entry under said act, and the land has been reclaimed according to law, but where any of the declarations, affidavits, or proofs required under the statute were omitted or are defective, in consequence of ignorance, accident, or mistake, and where from the death or absence of the claimant the missing

papers can not be supplied, or the defective papers amended, and where there is no adverse claim.

29. All desert-land entries in which the final proof and payment were not made within three years from date of entry, but in which the claimant was duly qualified, the land properly subject to entry under the statute, and subsequently reclaimed in time according to its requirements, in which the failure to make proof and payment in time was the result of ignorance, accident, or mistake, and in which there is no adverse claim.

30. All desert-land entries in which neither the reclamation nor the proof and payment were made within three years from date of entry, but where the entryman was duly qualified, the land properly subject to entry under the statute, the legal requirements as to reclamation complied with and the failure to do so in time was the result of ignorance, accident, or mistake, or of obstacles which he could not control, and where there is no adverse claim.

S. M. STOCKSLAGER,
Commissioner General Land Office.

We concur in the foregoing additional rules.

WM. F. VILAS,
Secretary of the Interior.
A. H. GARLAND,
Attorney-General.

MAY 12, 1888.

United States land offices.

Alabama:	Dakota:	Michigan:	Nevada:
Huntsville.	Mitchell.	Grayling.	Carson City.
Montgomery.	Watertown.	Marquette.	Eureka.
Alaska (district of):	Fargo.	Minnesota:	New Mexico:
Sitka.	Yankton.	Taylor's Falls.	Santa Fé.
Arkansas:	Bismarck.	Saint Cloud.	Las Cruces.
Little Rock.	Rapid City.	Duluth.	Oregon:
Camden.	Grand Forks.	Fergus Falls.	Oregon City.
Harrison.	Aberdeen.	Worthington.	Roseburg.
Dardanelle.	Huron.	Tracy.	Le Grand.
Arizona:	Devil's Lake.	Benson.	Lakeview.
Prescott.	Florida:	Crookston.	The Dalles.
Tucson.	Gainesville.	Redwood Falls.	Drussey.
California:	Idaho:	Mississippi:	Utah:
San Francisco.	Boisé City.	Jackson.	Salt Lake City.
Marysville.	Lewiston.	Missouri:	Washington:
Humboldt.	Blackfoot.	Boonville.	Seattle.
Stockton.	Hailey.	Ironton.	Vancouver.
Visalia.	Cœur d'Alene.	Springfield.	Walla Walla.
Sacramento.	Iowa:	Montana:	Spokane Falls.
Los Angeles.	Des Moines.	Miles City.	North Yakima.
Shasta.	Kansas:	Helena.	Wisconsin:
Susanville.	Topeka.	Bozeman.	Menasha.
Independence.	Salina.	Nebraska:	Falls of St. Croix.
Colorado:	Independence.	Lincoln.	Wausau.
Denver City.	Wichita.	Niobrara.	La Crosse.
Leadville.	Kirwin.	Grand Island.	Ashland.
Central City.	Concordia.	North Platte.	Eau Claire.
Pueblo.	Larned.	Bloomington.	Wyoming:
Del Norte.	Wa-Keeny.	Neligh.	Cheyenne.
Montrose.	Oberlin.	Sidney.	Evanston.
Durango.	Garden City.	Chadron.	Buffalo.
Gunnison.	Louisiana:	Valentine.	
Glenwood Springs.	New Orleans.	McCook.	
Lamar.	Natchitoches.		

NOTE—By act of July 31, 1876, the land offices in Ohio, Indiana, and Illinois were abolished; and by act of March 3, 1877, the vacant tracts of public land in Ohio, Indiana, and Illinois are made subject to entry and location at the General Land Office, Washington, D. C. (See Regulations, on pages 54 and 55.)

FORMS.

[No. 4-001.]

CASH APPLICATION.

No. ——. LAND OFFICE AT ———,
(*Date*) ———, 18—.

I, ——— ———, of —— county, ——, do hereby apply to purchase the —— of section ——, in township ——, of range ——, containing —— acres, according to the returns of the surveyor-general, for which I have agreed with the register to give at the rate of —— per acre.

——— ———.

My post-office address is ———.*

I, ——— ———, register of the land office at ——, do hereby certify that the lot above described contains —— acres, as mentioned above, and that the price agreed upon is —— per acre.

——— ———, *Register.*

[No. 4-131.]

CASH RECEIPT.

No. ——. RECEIVER'S OFFICE AT ———,
(*Date*) ———, 18—.

Received from ——— ———, of —— county, ——, the sum of —— dollars and —— cents, being in full for the —— quarter of section No. ——, in township No. ——, of range No. ——, containing —— acres and —— hundredths, at $—— per acre.

——— ———, *Receiver.*

$——.

[No. 4-189.]

CASH CERTIFICATE.

No. —— LAND OFFICE AT ———,
(*Date*) ———, 18—.

It is hereby certified that, in pursuance of law, ——— ———, of —— county, State of ——, on this day purchased of the register of this office the lot or —— of section No. ——, in township No. ——, of range No. ——, containing —— acres, at the rate of —— dollars and —— cents per acre, amounting to —— dollars and —— cents, for which the said —— ——— ha— made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the lot above described.

——— ———, *Register.*

* If residence is in city, street and number must be given.

[No. 4–536.]

PRE-EMPTION RECEIPT AND CERTIFICATE.

$——. LAND OFFICE AT ———,
(*Date*) ———, 18—.

Mr. ——— ——— has this day paid —— dollars, the register's and receiver's fees, to file a declaratory statement, the receipt whereof is hereby acknowledged.

——— ———, *Receiver.*

No. ——.

Mr. ——— ———, having paid the fees, has this day filed in this office his declaratory statement, No. ——, for —— of section ——, in township ——, of range ——, containing —— acres, settled upon ——, 18—, being —— offered.

——— ———, *Register.*

[No. 4–534.]

PRE-EMPTION DECLARATORY STATEMENT FOR OFFERED LANDS.

I, ——— ———, of ——, being ——, have, since the 1st day of ——, A. D. 18—, settled and improved the —— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land-office at ——, and containing —— acres, which land *had been rendered subject to private entry* prior to my settlement thereon; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under section 2259 of the Revised Statutes of the United States.

My post-office address is ———.

Given under my hand this —— day of ——, A. D. 18—.

———.

In presence of ——— ———, of ——— ———.
and ——— ———, of ——— ———.

[No. 4–535.]

PRE-EMPTION DECLARATORY STATEMENT FOR UNOFFERED LANDS.

I, ——— ———, of ——, being ——, have, on the —— day of ——, A. D. 18—, settled and improved the —— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land-office at ——, and containing —— acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right under section 2259 of the Revised Statutes of the United States.

My post-office address is ———.

Given under my hand this —— day of ——, A. D. 18—.

———.

In presence of ——— ———, of ——— ———.
and ——— ———, of ——— ———.

[No. 4–061.]

AFFIDAVIT REQUIRED OF PRE-EMPTION CLAIMANT.

I, ——— ———, claiming the right of pre-emption, under section 2259 of the Revised Statutes of the United States, to the —— of section No. ——, of township No. ——, of range No. ——, subject to sale at ——, do solemnly —— that I have never had the benefit of any right of pre-emption under said section; that I am not the owner of 320 acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same in speculation, but in good faith to ap-

propriate it to my own exclusive use or benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

My post-office address is ———.

——— ———.

I, ——— ———, of the land-office at ——, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ——, A. D. 18—.

———

[4-369*a*.]

HOMESTEAD, PRE-EMPTION, AND COMMUTATION PROOF.

TESTIMONY OF CLAIMANT.

Full and specific answers must be given to each question. Evasive answers will be fatal to the proof.

——— ———, claimant, being first duly sworn, testifies as follows:

Ques. 1. What is your correct name, your age, and occupation? If employed by any person, state by whom.—Ans. ———.

Ques. 2. What is your post-office address?—Ans. ———.

Ques. 3. Are you the identical person who made pre-emption filing No. —— (or homestead entry No. ——) at the ——— land office on the —— day of ———, 188 , and what is the true description of the land now claimed by you?—Ans. ———.

Ques. 4. Where did you live before settling upon this land, and what was your occupation?—Ans. ———.

Ques. 5. Are you a citizen of the United States, or have you declared your intention to become such?—Ans. ———.

(In case the party is of foreign birth, a copy of his declaration of intention to become a citizen or full naturalization certificate, officially certified, must be filed with the case. The latter is only required in final homestead entries.)

Ques. 6. Are you interested in any other entry or filing than the one upon which you now seek to make proof?—Ans. ———.

Ques. 7. Have you ever made a pre-emption filing for any other tract of land, or made any other homestead entry or filing or entry of any kind? (Answer each question separately, describe the land, and state what disposition you made of your claim.)—Ans. ———.

Ques. 8. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?—Ans. ———.

Ques. 9. What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.—Ans. ———.

Ques. 10. Is the land valuable for coal, iron, stone, or minerals of any kind? Has any coal or other minerals been discovered thereon, or is any coal or mineral known to be contained therein? Are there any indications of coal, salines, or minerals of any kind on the land; if so, describe what they are?—Ans. ———.

Ques. 11. If the land is timber land, state the kind, quality, and amount of timber thereon at date of initiating your claim, the amount still standing, how much has been cut and removed, and by whom, and whether the same has been disposed of, and to whom; also whether any other person than yourself has any interest in the timber, and if so, what kind of interest.—Ans. ———.

Ques. 12. If the land is used for grazing purposes, state how and by whom it is so used, and whether it is within any stock range or fence or other inclosure, and who owns or controls the range or inclosure.—Ans. ———.

Ques. 13. When did you first make an actual personal settlement on this land? State what you did to make such settlement, and the character and value of the improvements you then placed upon the land.—Ans. ———.

Ques. 14. Was the land occupied by any other person when you made such settlement? If so, state who lived there, and how you obtained possession.—Ans. ———.

Ques. 15. When did you actually move on this land and commence living permanently thereon?—Ans. ———.

Ques. 16. Where has been your actual personal residence and home during the whole time since the date of this filing or entry?—Ans. ———.

Ques. 17. Has your residence on the land now claimed been actual or constructive, continuous or at intervals? Explain what you mean by actual continuous residence.—Ans. ———

Ques. 18. Have you resided or boarded elsewhere than on this land since commencing your residence thereon? If so, state when and where, how often, and for how long.—Ans. ———.

Ques. 19. Where have you voted since establishing residence on this land, and where did you last vote, and how long have you voted there?—Ans. ———.

Ques. 20. How many times have you been absent from said tract since you commenced actual residence thereon? Give the dates when each absence commenced and terminated, and the cause therefor.—Ans. ———.

Ques. 21. Have you a family, and of whom does your family consist?—Ans. ———.

Ques. 22. Has your family resided with you on this claim? If so, state when they moved on the land, how long they have lived there, and whether they actually reside there still.—Ans. ———.

Ques. 23. If your family has been absent any part of the time since moving on the land state the causes for and the dates when each absence commenced and terminated.—Ans. ———.

Ques. 24. When and by whom was your house built? Is it habitable at all seasons of the year?—Ans. ———.

Ques. 25. Did you and your family live in said house during all of each or any winter since the date of your filing or entry. If not, state the duration and causes of each absence?—Ans. ———.

Ques. 26. If your family has not lived with you on this claim since the date of your filing or entry, state the causes therefor, where they did reside, and where they are now living.—Ans. ———.

Ques. 27. Do you own any other *residence house* than the one now on your claim? If so, state where, and who occupies the same.—Ans. ———.

Ques. 28. Describe fully the house on this claim, giving value thereof; also describe fully all other improvements thereon of whatever kind, giving the value of each and total value of all improvements.—Ans. ———.

Ques. 29. What farm implements do you own and use on this claim? State kind and number, and how long you have owned the same.—Ans. ———.

Ques. 30. What domestic animals and live stock do you own and keep on this claim? State kind and number of each kind.—Ans. ———.

Ques. 31. State what articles of furniture of every kind you keep and use in your residence on this claim, and how long you have had them there.—Ans. ———.

Ques. 32. Have you any personal property or live stock of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.—Ans. ———.

Ques. 33. How many seasons have you raised crops on this land, and what kind of crops have you raised each season?—A. ———.

Ques. 34. How many acres have you put in crops each year, and how much did you raise? State the amount in bushels of each kind.—Ans. ———.

Ques. 35. Have you the land in crop this year, or is it prepared for cropping the coming season? How much of the land is so cropped or prepared?—Ans. ———.

Ques. 36. Do you carry on any trade, profession, or business elsewhere than on this land? If so, state what business you have been engaged in while claiming this land, where it was carried on, and the distance from your claim.—Ans. ———.

Ques. 37. If you have been employed in working for others away from this claim since you established residence thereon, state when, where, and for whom, in what occupation or capacity, how long you have so worked, and where you staid and lived during that time.—Ans. ———.

Ques. 38. What are you assessed for taxes, personal, real estate, or license, and when and where have you paid taxes since claiming this land?—Ans. ———.

Ques. 39. Are the improvements on this land assessed for taxes; if so, at what valuation? Have such taxes been paid; if so, when and by whom?—Ans. ———.

Ques. 40. What use is made of this land, and who, besides yourself and family, uses it or causes it to be used?—Ans. ———.

Ques. 41. Have you sold, transferred, or mortgaged this land, or offered or agreed to sell or dispose of it, and at what price?—Ans. ———.

Ques. 42. Do you make this entry in the interest or for the benefit of any one else, or has any person other than yourself and family any interest, immediate or prospective, in this entry? If so, state for whom the entry is made.—Ans. ———.

Ques. 43. Has any person paid your expenses for making this entry, or paid you wages or a salary on condition that you make said entry, or agreed to do either, or agreed to pay the entry money for you, or to pay the fees or commissions, with the agreement or understanding that you will deed the land after entry is made?—Ans. ———.

Ques. 44. Do you make this entry in good faith, for the exclusive purpose of a home and farm for yourself and family?—Ans. ———.

[Signature of claimant.] —— — ———.

I hereby certify that each question in the foregoing deposition was orally propounded to the said ——— ———, and the foregoing answers severally given by him thereto before he signed the same and after being sworn according to law; that the said —— — ——— is to me personally known (or satisfactorily identified by ——— ———) as the person he represents himself to be in making this proof; that I have called his attention to the laws and penalties against false swearing, and that the foregoing deposition was sworn to and subscribed before me this —— day of ———, A. D. 188—.

———— ————,
———— ————.

———

[4–369 *b*.]

HOMESTEAD, PRE-EMPTION, AND COMMUTATION PROOF.

TESTIMONY OF WITNESS.

(The testimony of two witnesses, taken separately, in addition to the testimony of claimant, is required in each case.)

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit.)

The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.

Question 1. What is your true name (Christian and surname), given in full, your age, residence, and present post-office address? (Give description of land on which you reside, quarter-section, township, and range.)—Ans. ———.

Ques. 2. What is your present occupation, and where and by whom have you been employed since ———, the date of claimant's alleged settlement on said tract?—Ans. ———.

Ques. 3. Are you related to claimant or in any way interested in this claim, or are you connected with him in business of any kind?—Ans. ———.

Ques. 4. How far from the residence of claimant, on said tract, do you reside, and how long have you lived there?—Ans. ———.

Ques. 5. Give the names and residences of two or more persons living nearer to the claimant of this tract than yourself. If none are nearer than you, give the names of two or more next nearest, and state the land on which they reside.—Ans. ———.

Ques. 6. How long have you known ——— ———, the claimant, for whom you appear as a witness, where has he been living since you first knew him up to the present time, and is he the identical person he represents himself to be?—Ans. ———.

Ques. 7. Are you well acquainted with the land embraced in this claim? Give correct description thereof; also state the extent of your knowledge, and how you know what you affirm.—Ans. ———.

Ques. 8. How often have you been on this tract of land since claimant's alleged settlement thereon, at what time or times, and when did you last see him on the land?—Ans. ———.

Ques. 9. Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?—Ans. ———.

Ques. 10. State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.—Ans. ———.

Ques. 11. Are there any indications of coal, minerals, or salines on this land?—Ans. ———.

Ques. 12. Is it within any stock range or fence or other inclosure? If so, give the names of the parties owning or in any manner controlling such inclosure or range.—Ans. ———.

Ques. 13. If the land is timber land, state whether the timber, or any portion thereof, and what portion, if any, has been cut or removed, and by whom.—Ans. ———.

Ques. 14. What is this land used for, and who (if any one) besides the claimant is in any manner interested in or uses or controls the land or claims the timber thereon?—Ans. ———.

Ques. 15. What has been claimant's occupation since you first knew him, and where has he been employed, and by whom?—Ans. ———.

Ques. 16. Has he had any other living or boarding place than on this land during

the existence of his present claim? If so, state where he has been living or stopping.—Ans. ———.

Ques. 17. Does claimant's family reside on said land? When did they move thereon? How long have they lived there, and do they still reside thereon? If not, where do they reside?—Ans. ———.

Ques. 18. Has claimant's family been absent from said land since moving thereon? If so, state how often, how long each time, and the cause of said absence or absences.—Ans. ———.

Ques. 19. State in full and in detail all the facts within your knowledge as to claimant's actual residence upon this claim; when and how often you have seen him upon the land; what were the evidences that he actually lived on the tract; how long he has lived there, and whether he lives there now.—Ans. ———.

Ques. 20. If claimant has been absent from said land since his alleged settlement, state fully how often, when, how long each time, and for what purpose.—Ans. ———.

Ques. 21. State in detail the character of the improvements; what they consist of, and when they were made; the value of each distinct improvement, fully describing the same; also whether they were made by the claimant or by some other person.—Ans. ———.

Ques. 22. Give the size, construction, and material of claimant's house on said tract, and also state whether the same is habitable during all seasons of the year.—Ans. ———.

Ques. 23. What is this land worth, and was it ever offered for sale?—Ans. ———.

Ques. 24. When did claimant commence living upon this land?—Ans. ———.

Ques. 25. How much of said land has been broken, how much plowed since being broken, and how much put into crop each season? State kind of crops raised, their value, and number of seasons crops were raised.—Ans. ———.

Ques. 26. Is said land in crops this season, or has it been prepared for cropping the coming season?—Ans. ———.

Ques. 27. Do you believe that claimant intends to continue his residence on this land after making final proof, or does he intend to remove therefrom?—Ans. ———.

Ques. 28. Does claimant, with his family, reside on said land at the present time? You will explain how you know he has resided there, as you have heretofore stated.—Ans. ———.

[Signature of witness.] ——— ———,
——— ———.

U. S. Land Office, ——— ———,
——— ——— 18—.

I hereby certify that ——— ——— personally appeared before me; that he is a credible witness, and is personally known to me (or has been satisfactorily identified before me by ——— ———), and that each question in the foregoing deposition was orally propounded to the said ——— ———, and the foregoing answers severally given by him thereto before he signed the same, and after being sworn according to law; that I have called his attention to the laws and penalties against false swearing; and that the foregoing deposition was sworn to and subscribed before me this —— day of ———, A. D. 18—.

———,
Register (or Receiver).

Special certificate.

[To be used in *all cases* when proof is made before a clerk of court or judge of probate.]

———,
———, *ss:*

I, ——— ———, in and for ———, do hereby certify that the claimant ——— ———, and his witnesses ——— ———, ——— ——— in this proof were identified by ——— ——— to be the identical persons named in the published notice herein.

That before proceeding to take the proof and testimony I read to the claimant and to each of the witnesses section 5392 of the Revised Statutes of the United States, and explained to each of them the import and meaning thereof.

That each of the printed questions in the testimony was read to said claimant and to each of said witnesses, and their respective answers thereto were by me reduced to writing and read to each respectively, and was there and then by them subscribed and sworn to before me.

That said proofs and affidavits were taken and made between the hours of 8 a. m. and 6 o'clock p. m. on the —— day of ———, 188–, at my office at ———, in said ———.

That no protest or objection of any kind against said proof has been made or filed in my office by any person.

Given under my hand and official seal this —— day of ——— 188–.

———— ————,

———— ————.

We hereby certify that the within and foregoing testimony of claimant and witnesses has been carefully examined by us before transmittal to the General Land Office.

———— ————,
Register.

———— ————,
Receiver.

[4–007.]

HOMESTEAD.

Application No.——.

LAND OFFICE AT ———,
———— ——, 188–.

I, ——— ———, of ——— ———, do hereby apply to enter, under section 2289, Revised Statutes of the United States, the ——— of section ——, in township —— of range ——, containing ——— acres.

My post-office address is ———*

———— ————.

LAND OFFICE AT ———,
———— ————, 188–.

I, ——— ———, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

———— ————,
Register.

[4–063.]

HOMESTEAD.

AFFIDAVIT.

LAND OFFICE AT ———,
———— ——, 188–.

I, ——— ———, of ———, having filed my application, No. ——, for an entry under section No. 2289, Revised Statutes of the United States, do solemnly swear that ——— ——— that said application, No. ——, is made for the purpose of actual settlement and cultivation; that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; and that I have not heretofore had the benefit of the homestead laws.

———— ————.

Sworn to and subscribed this —— day of ———, before.

———— ————,
——— *of the Land Office.*

NOTE.—If this affidavit be acknowledged before the clerk of the court, as provided for by section 2294, U. S. Revised Statutes, the homestead party must expressly state herein that he or some member of his family is residing upon the land applied for, and that bona fide improvement and settlement have been made. He must also state why he is unable to appear at the land office.

[Marginal notes in red ink.]

See note, which clerks of the courts and registers and receivers will read and explain thoroughly to persons making application for lands where the affidavit is made before either of them. (See directions to land officers on duplicate receipt.)

Timber land embraced in a homestead, or other entry not consummated, may be cleared in order to cultivate the land and improve the premises, *but for no other purpose.*

If, after clearing the land for cultivation, there remains more timber than is required for improvement, there is no objection to the settler disposing of the same. But the question whether the land is being cleared of its timber *for legitimate purposes* is a question *of fact*, which is liable to be raised at any time. If the timber is cut and removed *for any other purpose*, it will subject the entry to cancellation, and the person who cut it will be *liable to civil suit* for recovery of the value of said timber, and *also to criminal prosecution* under section 2461 of the Revised Statutes.

---

* If residence in city, street and number must be given.

[4-089.]

HOMESTEAD AFFIDAVIT.

Under section 2294, Revised Statutes, for settlers who can not appear at the district land office.

OFFICE OF THE CLERK OF THE COURT FOR ——— COUNTY,
——— ——, 188–.

I, ——— ———, of ———, having filed my homestead application No. ——, do solemnly swear that ———; that said application No. —— is made for the purpose of actual settlement and cultivation; that said entry is made for my exclusive use and benefit, and not directly or indirectly for the use or benefit of any other person or persons whomsoever; that ——— now residing on the land I desire to enter, and that I have made a bona fide improvement and settlement thereon; that said settlement was commenced ———; that my improvements consist of ———, and that the value of the same is $——; that owing to ——— I am unable to appear at the district land office to make this affidavit, and that I have never before made a homestead entry except ———.

——— ———.

Sworn to and subscribed before me this —— day of ——— 188–.

——— ———,
Clerk of the Court for ———.

NOTE.—The claimant must fill up the blank places above, showing whether he is the head of a family or over twenty-one years of age; whether a native citizen, or has declared his intention to become a citizen; whether he and his family, or some member thereof, is residing on the land, giving the date of actual settlement, describing the dwelling-house and improvements, and stating the value of the same, and stating reason for not appearing at the district land office. If claimant ever before made a homestead entry, describe the same; if not, draw a line over the word "except."

[4-137.]

Receiver's receipt, No. ——. Application, No. ——.

HOMESTEAD.

RECEIVER'S OFFICE, ———,
——— ——, 188–.

Received of ——— ——— the sum of ——— dollars ——— cents; being the amount of fee and compensation of register and receiver for the entry of ——— of section —— in township —— of range ——, under section No. 2290, Revised Statutes of the United States.

——— ———,
Receiver.

$——.

NOTE.—It is required of the homestead settler that he shall reside upon and cultivate the land embraced in his homestead entry for a period of five years from the time of filing the affidavit, being also the date of entry. An abandonment of the land for more than six months works a forfeiture of the claim. Further, within two years from the expiration of the said five years he must file proof of his actual settlement and cultivation, failing to do which, his entry will be canceled. If the settler does not wish to remain five years on his tract, he can, at any time after six months, pay for it with cash or land warrants, upon making proof of settlement and cultivation from date of filing affidavit to the time of payment.

[Marginal notes in red ink.]

See note in red ink, which registers and receivers will read and explain thoroughly to persons making application for lands where the affidavit is made before either of them.

Timber land embraced in a homestead, or other entry not consummated, may be cleared in order to cultivate the land and improve the premises, *but for no other purpose.*

If, after clearing the land for cultivation, there remains more timber than is required for improvement, there is no objection to the settler disposing of the same. But the question whether the land is being cleared of its timber *for legitimate purposes* is a question *of fact*, which is liable to be raised at any time. If the timber is cut and removed *for any other purpose*, it will subject the entry to cancellation, and the person who cut it will be *liable to civil suit* for recovery of the value of said timber, *and also to criminal prosecution* under section 2461 of the Revised Statutes.

[4-348.]

HOMESTEAD NOTICE OF INTENTION TO MAKE FINAL PROOF.

LAND OFFICE AT ———,
——— ——, 188–.

I, ———, of ———, who made homestead application No. —— for the ——— do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove my residence and cultivation before ——— ——— at ——— on ———, 188–, by two of the following witnesses:
——— ———, of ———,
——— ———, of ———,

——— ———.
[Signature of claimant.]

LAND OFFICE AT ———,
——— ——, 188–.

Notice of the above application will be published in the ——— printed at ———, which I hereby designate as the newspaper published nearest the land described in said application.

——— ———, *Register.*

NOTICE TO CLAIMANT.—Give time and place of proving up and name the title of the officer before whom proof is to be made; also give names and post-office address of four neighbors, two of whom must appear as your witnesses.

[4-347.]

NOTICE FOR PUBLICATION.

LAND OFFICE AT ———,
——— ——, 188–.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim, and that said proof will be made before ——— ——— at ———, on ———, 188–, viz: ———, for the ———.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz: ———, of ———, of ———, of ———, of ———.

Any person who desires to protest against the allowance of such proof, or who knows of any substantial reason, under the law and the regulations of the Interior Department, why such proof should not be allowed, will be given an opportunity at the above-mentioned time and place to cross-examine the witnesses of said claimant, and to offer evidence in rebuttal of that submitted by claimant.

——— ———, *Register.*

NOTE—This notice must also be posted in a conspicuous place in the Land Office for a period of thirty days prior to date of final proof.

HOMESTEAD CONSOLIDATED NOTICE FOR PUBLICATION.

LAND OFFICE AT ———,
———, 18—.

Notice is hereby given that the following named settlers have filed notice of intention to make final proof on their respective claims before ——— ———, at ———, on ——— ——, 18—, viz:

——— ———, on homestead application No. ——, for the ——— ———.

Witnesses: ——— ———, of ———, and ——— ———, of ———.

——— ———, on pre-emption declaratory statement No. ——, for the ——— ———.

Witnesses: ——— ———, of ———, and ——— ———, of ———.

——— ———, *Register.*

[4-227.]

CERTIFICATE AS TO POSTING OF NOTICE.

LAND OFFICE AT ———,
——— ——, 188–.

I, ——— ———, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of thirty days, I having first posted said notice on the —— day of ———, 188–.

——— ———, *Register.*

[4-070.]

HOMESTEAD PROOF.

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

[Section 2291 of the Revised Statutes of the United States.]

I, ——— ———, having made a homestead entry of the ——— section, No. ——, in township No. ——, of range No. ——, subject to entry at ———, under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the Revised Statutes of the United States, and for that purpose do solemnly ——— that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided thereon since the —— day of ———, 18—, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

——— ———,

I, ——— ———, of the land office at ———, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ———, 188–.

——— ———.

[4-140.]

Final receiver's receipt No. ———. Application No. ———.

HOMESTEAD.

RECEIVER'S OFFICE, ———,
——— ——, 188–.

Received of ——— ——— the sum of ——— dollars —— cents, being the balance of payment required by law for the entry of ——— of section ——, in township ——, of range ——, containing ——— acres, under section 2291 of the Revised Statutes of the United States.

$—.

——— ———, *Receiver.*

[4-196.]

HOMESTEAD.

LAND OFFICE AT ———,
——— ——, 188–.

Final certificate No. ———. Application No. ———.

It is hereby certified that, pursuant to the provisions of section No. 2291, Revised Statutes of the United States, ——— ——— has made payment in full for ——— of section No. ——, in township No. ——, of range No. ——, of the —— principal meridian ———, containing ——— acres.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register.*

[4-069.]

[To be used in cases of commuted homestead entries. For taking the testimony of claimant and his witnesses in making commutation proof, use the prescribed forms for "Homestead Proof."]

AFFIDAVIT REQUIRED OF CLAIMANT.

[Section 2301 of the Revised Statutes of the United States.]

I, ——— ———, claiming the right to commute, under section 2301 of the Revised Statutes of the United States, my homestead entry No. ——, made upon the ——— section ——, township ——, range ——, do solemnly swear that I made settlement upon said land on the —— day of ———, 18—, and that since such date, to wit, on the —— day of ———, 18—, I have built a house on said land, and have continued to reside therein up to the present time; that I have broken and cultivated ——— acres of said land, and that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler.

I further swear that I have not heretofore perfected or abandoned an entry made under the homsestead laws of the United States.

——— ———.

LAND OFFICE, ———.

Subscribed and sworn to before me this —— day of ———, 188–.

——— ———, *Register.*

[4-066.]

ADJOINING FARM HOMESTEAD.

[Affidavit.]

LAND OFFICE AT ———,
———, ——, 188–.

I, ——— ———, of ———, having filed my application, No. ——, for an entry under the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," do solemnly swear that ———; that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; neither have I heretofore perfected or abandoned an entry made under this act; that the land embraced in the said application, No. ——, is intended for an adjoining farm homestead; that I now own and reside upon an original farm containing ——— acres, *and no more;* that the same comprises the ——— of section ——, township ——, range ——, and is contiguous to the tract this day applied for.

——— ———.

Sworn to and subscribed this —— day of ———, before,

——— ———,
——— *of the Land Office.*

[4-067.]

FINAL AFFIDAVIT REQUIRED OF ADJOINING FARM HOMESTEAD CLAIMANTS.

(Section 2291, Revised Statutes.)

I, ——— ———, having made a homestead entry of the ———, section No. ——, in township No. —— of range No. ——, subject to entry at ———, for the use of an adjoining farm owned and occupied by me on the ——— of section No. —— in township No. ——, of range No. ——, under section 2289 of the Revised Statutes, do now apply to perfect my claim thereto by virtue of section No. 2291 of the same, and for that

purpose do solemnly ——— that I am a citizen of the United States; that I have continued to own and occupy the land constituting my original farm, having resided thereon since the —— day of ———, 18—, to the present time, and have made use of the said entered tract as a part of my homestead, and have improved the same in the following manner, viz: ———. That no part of said land has been alienated, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry under the homestead laws.

——— ———.

I, ——— ———, of the land office at ———, do hereby certify that the above affidavit was taken and subscribed before me this —— day of ———, 18—.

——— ———.

[4-071.]

(To be used in making FINAL PROOF in cases where pre-emption filings have been changed to homestead entries under the acts of March 3, 1877, and May 27, 1878.)

PRE-EMPTION HOMESTEAD AFFIDAVIT.

I, ——— ———, having changed my pre-emption declaratory statement No. —— filed the —— day of ———, 18—, alleging settlement the —— day of ———, 18—, for the ——— section No. ——, in township No. ——, of range No. ——, to homestead entry original No. ——, district lands subject to entry at ——— under the acts of Congress approved March 3, 1877, and May 27, 1878, do solemnly swear that I have never had the benefit of any right of pre-emption under section 2259 of the Revised Statutes of the United States; that I have not heretofore filed a pre-emption declaratory statement for another tract of land; that I was not the owner of three hundred and twenty acres of land in any State or Territory of the United States at any time during the above-mentioned period of settlement under the pre-emption statutes; that I did not remove from my own land within the State of ——— to make the settlement above referred to; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my exclusive use or benefit; and that I did not, during the period of pre-emption settlement above mentioned, directly or indirectly, make any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which I might acquire from the Government of the United States would inure, in whole or in part, to the benefit of any person except myself.

——— ———.

I, ——— ———, of the land office ——— do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ———, 18—.

——— ——.

[4-018.]

ADDITIONAL HOMESTEAD.

(Act of March 3, 1879.)

APPLICATION No. ———.] LAND OFFICE AT ———,
——— ——, 18—.

I, ——— ———, of ———, do hereby apply to enter, under the act of March 3, 1879, the ———, of section ——, in township ——, of range ——, containing ——— acres, as additional to my entry No. ——, for the ——— of ———, section ——, in township ——, of range ——.

My post-office address is *———.

——— ———.

LAND OFFICE AT ———.

——— ——, 18—.

I, ——— ———, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under the act of March 3, 1879, and that there is no prior valid adverse right to the same.

——— ———, *Register.*

---

*If residence in city, street and number must be given.

(Affidavit.)

[4-086.]

ADDITIONAL HOMESTEAD.

(Act of March 3, 1879.)

LAND OFFICE AT ———,
———, 188–.

I, ——— ———, of ———, having filed my application, No. ——, for an entry under the act of March 3, 1879, do solemnly swear that ———; that I did not serve for a period of ninety days or more in the Army or Navy of the United States during the war of the rebellion, and receive an honorable discharge therefrom; that said application No. —— is made for my exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation as an addition to my homestead, No. ——, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever, and that I have not heretofore had the benefit of said act.

——— ———.

Sworn to and subscribed this —— day of ———, 188–, before—

——— ———.

NOTE.—If this affidavit be acknowledged before the clerk of the court, as provided for by section 2294, U. S. Revised Statues, the homestead party must expressly state herein that he or some member of his family is residing upon the land applied for, or upon the land embraced in his original entry, and that bona fide improvement and settlement have been made. He must also state why he is unable to appear at the land office.

[4-546.]

SOLDIER'S DECLARATORY STATEMENT.

I, ——— ———, of ——— County, and State or Territory of ———, do solemnly swear that I served for a period of ——— in the Army of the United States during the war of the rebellion, and was honorably discharged therefrom, as shown by a statement of such service herewith, and that I have remained loyal to the Government; that I have never made homestead entry or filed a declaratory statement under sections 2290 and 2304 of the Revised Statutes; that I have located as a homestead under said statute the ———, and hereby give notice of my intention to claim and enter said tract; that this location is made for my exclusive use and benefit, for the purpose of my actual settlement and cultivation, and not, either directly or indirectly, for the use and benefit of any other person.

My present post-office address is ———.

——— ———.

Sworn to and subscribed before me this —— day of ———, 188–.
[SEAL.]

——— ———.

NOTE.—This form may be used where the soldier files his own declaratory statement.

[4-545.]

SOLDIER'S DECLARATORY STATEMENT.

(FILED BY AN AGENT.)

I, ——— ———, of ——— County and State or Territory of ———, do solemnly swear that I served for a period of ——— in the Army of the United States during the war of the rebellion, and was honorably discharged therefrom, as shown by a statement of such service herewith, and that I have remained loyal to the Government; that I have never made homestead entry or filed a declaratory statement under sections 2290, 2304, or 2309 of the Revised Statutes; that I have appointed, by power of attorney duly executed on the —— day of ——— (or I do hereby appoint), ———, of ——— County and State of ———, my true and lawful agent, under section 2309 aforesaid, to select for me and in my name, and file my declaratory statement for a

homestead right under the aforesaid sections; and I hereby give notice of my intention to claim and enter said tract under said statute; that the location herein authorized is made for my exclusive use and benefit, for the purpose of my actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; that my said attorney has no interest, present or prospective, in the premises, and that I have made no arrangement or agreement with him or any other person for any sale or attempted sale or relinquishment of my claim in any manner or for any consideration whatever, and that I have not signed this declaration in blank.

——— ———.

Sworn to and subscribed before me this —— day of ———, 188–, and I certify that the foregoing declaration was fully filled out before being subscribed or attested.

[OFFICIAL SEAL.] ——— ———.

By virtue of the foregoing, and of a certain power of attorney therein named, duly executed on the —— day of ———, and filed herewith, I hereby select the ——— as the homestead claim of ———, the aforesaid, and do solemnly swear that the same is filed in good faith for the purposes therein specified, and that I have no interest or authority in the matter, present or prospective, beyond the filing of the same as the true and lawful agent of the said ———, as provided by section 2309 of the Revised Statutes of the United States.

———, *Agent.*

Sworn to and subscribed before me this —— day of ———, 188–.

[OFFICIAL SEAL.] ——— ———.

NOTE.—This form may be used where the declaratory statement is filed by an agent under section 2309, Revised Statutes.

———

[4–015.]

Soldiers' and sailors' homesteads under act June 8, 1872.

HOMESTEAD.

Application No. ———.] LAND OFFICE AT ———,
——— ——, 188–.

I, ——— ———, of ———, do hereby apply to enter, under the provisions of the act of June 8, 1872, amendatory of an act entitled "An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to secure homesteads on the public domain," the ——— of section ——, in township ——, of range ——, containing ——— acres, and for which I have filed my declaration on the —— day of ———, 18—, through ———, my duly appointed agent.

My post-office address is * ———.

——— ———.

LAND OFFICE AT ———,
——— ——, 188–.

I, ——— ———, register of the land office, do hereby certify that ——— filed the above application at this office on the —— day of ———, 18—, and that he has taken the oath and paid the fees and commissions prescribed by law.

——— ———, *Register.*

* If residence in city, street and number must be given.

[4-065.]

Soldiers' and sailors' homesteads under act June 8, 1872.

AFFIDAVIT.

No. ——.] LAND OFFICE AT ———,
——— ——, 188–.

I, ——— ———, of ———, do solemnly swear that I am a ———, of the age of twenty-one years, and a citizen of the United States; that I served for ninety days in company —, ——— Regiment United States Volunteers; that I was mustered into the United States military service the —— day of ———, 18—, and was honorably discharged therefrom on the —— day of ———, 18—; that I have since born true allegiance to the Government; and that I have made my application No. —— to enter a tract of land under the provisions of the act of June 8, 1872, giving homesteads to honorably discharged soldiers and sailors, their widows and orphan children; that I have made said application in good faith; and that I take said homestead for the purpose of actual settlement and cultivation, and for my own exclusive use and benefit, and for the use and benefit of no other person or persons whomsoever; and that I have not heretofore acquired a title to a tract of land under this or the original homestead law, approved May 20, 1862, or the amendments thereto, or voluntarily relinquished or abandoned an entry heretofore made under said acts. So help me God.

——— ———.

Sworn and subscribed to before me, ———, register of the land office at ———, this —— day of ———, 188–.

——— ———,
Register.

[4-008.]

Additional entry under section 2306 of the Revised Statutes of the United States.

APPLICATION.

No. ——.] LAND OFFICE, ———,
——— ——, 188–.

I, ——— ———, of ——— County, State of ———, being entitled to the benefits of section 2306 of the Revised Statutes of the United States, granting additional lands to soldiers and sailors who served in the war of the rebellion, do hereby apply to enter the ——— as additional to my original homestead on the ———, which I entered ———, 18—, per homestead No. ——.

My post office address is * ———.

——— ———.

LAND OFFICE, ———,
——— ——, 188–.

I, ——— ———, register of the land office at ———, do hereby certify that ——— filed the above application before me for the tract of land therein described, and that he has paid the fee and commissions prescribed by law.

——— ———, *Register.*

[4-197.]

Additional entry under section 2306 of the Revised Statutes of the United States.

CERTIFICATE.

LAND OFFICE, ———,
——— ——, 18 –.

Final certificate No. ——.] [Application No. ——.

It is hereby certified that, pursuant to the provisions of section 2306 of the Revised Statutes of the United States, ——— has paid the fee and commissions and made entry of the ———, of section ——, of township ——, of range ——, containing ———

* If residence in city, street and number must be given.

acres, which, added to the quantity embraced in his original homestead No. ——, on which he has made final proof, as per certificate No. ——, does not exceed 160 acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register.*

[4-343.]

UNITED STATES LAND OFFICE, ———,
——— ——, 188–.

SIR: Your homestead entry No. ———, Sec. ——, T. ——, R. ——, was made ——— ——, 18—, and the five years during which residence and cultivation were required by law expired ——— ——, 188–.

The law provides that patent shall issue upon the presentation of proper proof of residence and cultivation within *two* years after the expiration of the five years referred to.

If this final proof is not presented within the time prescribed, this office will be warranted in treating the entry as voluntarily abandoned on your part.

——— ———, *Register.*
——— ———, *Receiver.*

To ——— ———,
——— ———.

[4-344.]

UNITED STATES LAND OFFICE, ———,
——— ——, 188–.

SIR: You are hereby notified that the homestead law requires final proof of settlement and cultivation to be made within two years after the expiration of five years from date of entry, and that in case of your entry, No. ——, for ———, of section ——, township ——, range ——, dated ———, 188–, the time fixed by the statute has expired without the requisite proof being filed by you. You will, therefore, within thirty days from date of service of this notice, show cause, before us, why your claim shall not be declared forfeited, and your entry canceled, for non-compliance with the requirements of the law, so that the case may be reported to the Commissioner of the General Land Office for the proper action.

——— ———, *Register.*
——— ———, *Receiver.*

To ——— ———,
——— ———.

[4-009.]

TIMBER-CULTURE ACT OF JUNE 14, 1878.

Application No. ——.]

I, ———, hereby apply to enter, under the provisions of the act of June 14, 1878, entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" the ——— of section ——, in township ——, of range ——, containing ——— acres.

My post-office address is* ———.

——— ———.

LAND OFFICE AT ———,
———, 188–.

I, ———, register of the land office, do hereby certify that the above application is for the class of lands which the applicant is legally entitled to enter under the provisions of the timber-culture act of June 14, 1878; that there is no prior valid adverse right to the same, and that the land therein described, together with the lands heretofore entered, under this act and the acts of which this is amendatory, in the said section, does not exceed one-quarter thereof.

——— ———, *Register.*

---

*If residence in city, street and number must be given.

[4-073.]

[This affidavit can be made *only* upon applicant's personal knowledge, will not be accepted when based on information, and must be subscribed and sworn to in the land district in which the land is situated and before the register or receiver or officer authorized to take such affidavits in that district.]

TIMBER-CULTURE AFFIDAVIT.

LAND OFFICE AT ———.
(Date) ———, 18—.

I, ——— ———, having filed my application No. —— for an entry under the provisions of an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" approved June 14, 1878, do solemnly —— that I am the head of a family (*or over twenty-one years of age*), and a citizen of the United States (*or have declared my intention to become such*); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory.

——— ———.

My post-office address is *———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was sworn and subscribed to before me at my office in ———, within the ——— land district on this —— day of ———, 18—.

My commission expires ———.

——— ———.

NOTE.—Any person swearing falsely to the foregoing affidavit or to any of the statements therein, is guilty of *perjury* and will be punished as provided by law for that offense.

The officer before whom the testimony is taken should call the attention of the witness to the following act of Congress, which is made by statute specially applicable to all oaths, affirmations, and affidavits required or authorized under the timber-culture acts:

ACT OF MARCH 3, 1857 (11 Statutes, p. 250).

"SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of the said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States, in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States." (*See also section* 5392, *U. S. Revised Statutes.*)

[4-142.]

TIMBER CULTURE.

Receiver's receipt, No. ——.] [Application No. ——.

RECEIVER'S OFFICE, ———,
(Date.) ———, 188–.

Received of ——— the sum of ——— dollars —— cents, being the amount of fee and compensation of register and receiver for the entry of ——— of section ——, in township —— of range ——, under the first section of the act of Congress approved June 14, 1878 entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies.'"

———, *Receiver.*

$—.

* If residence in city, street and number must be given.

[4-093.]

TIMBER-CULTURE ENTRY.

[Acts of March 3, 1873, March 13, 1874, and June 14, 1878.]

FINAL AFFIDAVIT.

I, ——— ———, having on the —— day of ———, 18—, made a timber-culture entry, No. ——, of the ——— of section ——, in township —— of range ——, subject to entry at ———, ——, under the timber-culture laws of the United States, do hereby apply to perfect my claim thereto by virtue of the seventh section of the act of June 14, 1878, entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" and for that purpose do solemnly ——— that my aforesaid entry was made in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I have not heretofore made any other entry under the timber-culture laws of the United States; and I do further ——— that the section of land specified in my aforesaid entry is composed exclusively of prairie lands or other lands devoid of timber, and that said entry was made for the cultivation of timber, and that I have planted on said land, cultivated, protected, and kept in a healthy growing condition for and during the period of eight (8) years last past ——— acres of ——— (here describe the kinds) timber; that not less than ——— trees were planted on each acre, and that there are now at least ——— (*here state* the number) living and thrifty trees to and upon each acre, aggregating in total the number of ——— trees.

——— ———.
[Signature of claimant.]

Sworn to and subscribed before me this —— day of ———, 188–.

———— ————,
———— ————.

[4-385.]

TIMBER-CULTURE PROOF.

TESTIMONY OF CLAIMANT.

(Acts of March 3, 1873, March 13, 1874, and June 14, 1878.)

——— ———, being called as a witness in ——— own behalf, in support of —— timber-culture entry No. ——, for ——— section ——, township ——, of range ——, —— meridian, in the district of lands subject to entry at ———, testifies as follows:

Ques. 1. What is your name (written in full and correctly spelled), your age, and post-office address?—Ans. ———.

Ques. 2. Describe your timber-culture entry, giving the date thereof and the number of acres embraced therein.—Ans. ———.

Ques. 3. What number of acres of said land was broken by you during the first year, what number broken during the second year, and what number broken during the third year, respectively, after the date of your entry? Give the day, month, and year, as nearly as practicable, in each instance, when the several breakings were done; describe the method of breaking, and in what way your measurements were made?—Ans. ———.

Ques. 4. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *second* year of your entry, giving the day, month, and year, as nearly as practicable, when the planting was done, the kind or kinds of trees planted; and state how you know the area or number of acres so prepared and planted during said *second* year?—Ans. ———.

Ques. 5. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *third* year of your entry, giving the day, month, and year, as nearly as practicable, when the planting was done, the kind or kinds of trees planted; and state how you know the area or number of acres so planted during said *third* year.—Ans. ———.

Ques. 6. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *fourth* year of your entry, giving the day, month, and year, as nearly as practicable, when the planting was done, the

kind or kinds of trees planted; and state how you know the area or number of acres so planted during said *fourth* year.—Ans. ———.

Ques. 7. If you have received an extension of time for planting on account of destruction of your trees, seeds, or cuttings, by grasshoppers, or by extreme and unusual drought, state the year or years in which extension was had, and give all the particulars. How did you proceed to obtain such extension?—Ans. ———.

Ques. 8. How many acres of timber have you planted, cultivated, protected, and kept in a healthy growing condition for the period of eight (8) years, last preceding, on the tract embraced in your entry?—Ans. ———.

Ques. 9. Describe the condition of the trees now growing on said tract, giving their average diameter and height, as near as you can, the kind or kinds of trees, the number of trees per acre now growing thereon, and state how you know the facts to which you testify.—Ans. ———.

Ques. 10. Have you ever heretofore made any other timber-culture entry? If so, describe such entry or entries and state all the particulars.—Ans. ———.

Ques. 11. Is the section specified in your entry composed of prairie land, or was it devoid of timber at the date of your entry?—Ans. ———.

Ques. 12. State anything further within your personal knowledge which you have to offer regarding your aforesaid entry?—Ans. ———.

——— ———.

(*Signature of Claimant.*)

I hereby certify that each question and answer in the foregoing testimony was read to the claimant before —— signed —— name thereto, and that the same was subscribed and sworn to before me this —— day of ———, 188—.

——— ———,

——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following act of Congress, which is made by statute specifically applicable to all oaths, affirmations, and affidavits required or authorized under the timber-culture acts:

ACT OF MARCH 3, 1857 (11 Statutes, p. 250).

SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States, in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States. (*See also Section* 5392, *U. S. Revised Statutes.*)

[4–386.]

[The testimony of two witnesses, in this form, taken separately, required in each case.]

TIMBER-CULTURE PROOF.

TESTIMONY OF WITNESS.

(Acts of March 3, 1873, March 13, 1874, and June 14, 1878.)

——— ———, being called as a witness in support of the timber-culture entry of ——— ———, No. ——, for the ——— of section ——, township ——, of range ——, —— meridian, in the district of lands subject to entry at ———, testifies as follows:

Ques. 1. What is your name, age, occupation, and residence?—Ans. ———.

Ques. 2. Are you well acquainted with ——— ———, the claimant; and if so, since what time have you known him?—Ans. ———.

Ques. 3. If you have personal knowledge regarding claimant's timber-culture entry, give the date when said entry was made, describe the tract or tracts, and state the number of acres embraced therein?—Ans. ———.

Ques. 4. How far do you reside from the land described, and have you had continuous personal knowledge of said land and the improvements thereon during the last eight (8) years?—Ans. ———.

Ques. 5. Was the section embracing the entry of the claimant composed of prairie lands or other lands devoid of timber? Describe the land embraced in said section, whether undulating or otherwise; and if any natural timber was growing on the tract named at the date of entry, state the kind or kinds of trees so growing, and their number, situation, and size.—Ans. ———.

Ques. 6. How many acres of the land embraced in claimant's entry were broken by him during the first year, how many during the second year, how many during the third year, respectively, after the date of entry? Give the day, month, and year, in each instance, as near as practicable, when the several breakings were done; describe the method of breaking, and in what way your measurements were made, or how you know the area or number of acres broken.—A. ———.

Ques. 7. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *second* year of said entry, giving the day, month, and year, as near as practicable, when the planting was done, the kind or kinds of trees planted; and state how you know the area or number of acres so prepared and planted during said second year.—Ans. ———.

Ques. 8. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *third* year of said entry, giving the day, month, and year, as near as practicable, when the planting was done, the kind or kinds of trees planted; and state how you know the area or number of acres so prepared and planted during said third year.—Ans. ———.

Ques. 9. Describe the way in which the ground was prepared, and state how many acres of said tract were planted to trees during the *fourth* year of said entry, giving the day, month, and year, as near as practicable, when the planting was done, the kind or kinds of trees planted; and state how you know the area or number of acres so prepared and planted during said fourth year.—Ans. ———.

Ques. 10. Has the claimant ever had the trees, seeds, or cuttings on the tract embraced in his timber-culture entry destroyed by grasshoppers or by extreme and unusual drought? If so, state the year or years in which the destruction took place, and give all the facts within your personal knowledge?—Ans. ———.

Ques. 11. How many acres of timber on the tract described has the claimant planted, cultivated, protected, and kept in a healthy, growing condition for the period of eight (8) years, last preceding, and from what source is your knowledge upon this point obtained?—Ans. ———.

Ques. 12. Describe the condition of the trees now growing on said tract, give their average diameter and height, as nearly as you can, the kind or kinds of trees, the number of trees to the acre, and state how you know the facts to which you testify.—Ans. ———.

Ques. 13. Has the claimant, to your knowledge, ever made any other timber-culture entry?—Ans. ———.

Ques. 14. Have you any interest, direct or indirect, in this claim?—Ans. ———.

Ques. 15. State any further facts which you may know of your own personal knowledge regarding the aforesaid timber-culture entry?—Ans. ———.

——— ———.

(*Signature of witness.*)

I hereby certify that the above-named ——— ——— personally appeared before me, and that he is a credible witness; that the foregoing testimony was read to him before being subscribed, and was sworn to by him before me this —— day of ———, 188–.

———— ————,

———— ————.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following act of Congress, which is made by statute specifically applicable to all oaths, affirmations, and affidavits required or authorized under the timber-culture acts:

ACT OF MARCH 3, 1857 (11 Statutes, p. 250).

SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of

the Government of the United States, as under the laws of the United States in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear, or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States. (*See also section* 5392, *U. S. Revised Statutes.*)

[4-148.]

Final receiver's receipt No. ——.] [Application No. ——.

TIMBER CULTURE.

(Acts of March 3, 1873, March 13, 1874, and June 14, 1878.

RECEIVER'S OFFICE, ———,
———, 188–.

Received of ——— ——— the sum of ——— dollars —— cents, being the balance of payment required by law for the timber-culture entry of the ——— of section ——, in township ——, of range ——, —— meridian, containing ——— 100 acres, under the acts of March 3, 1873, and March 13, 1874, and the act of June 14, 1878, amendatory thereof, entitled "An act to amend the act entitled 'An act to encourage the growth of timber on the western prairies.'"

——— ———, *Receiver.*

$——.

[4-217.]

TIMBER CULTURE.

(Acts of March 3, 1873, March 13, 1874, and June 14, 1878.)

LAND OFFICE AT ———,
———, 188–.

Final Certificate No. ——.] [Application No. ——.

It is hereby certified that, in pursuance of the provisions contained in the acts of Congress of March 3, 1873, and March 13, 1874, and the act amendatory thereof of June 14, 1878, entitled "An act to amend the act entitled 'An act to encourage the growth of timber on the western prairies,'" ——— ———, of ———, has made payment in full for ——— of section No. ——, in township No. ——, of range No. ——, —— meridian, containing ——— 100 acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register.*

[4—537.]

(This affidavit can be made only upon the personal knowledge of applicant derived from his own personal examination of the land.)

TIMBER AND STONE LANDS—SWORN STATEMENT.

(To be made in duplicate.)

LAND OFFICE AT ———,
(*Date*) ———, 18—.

I, ——— ———, of (town or city) ———, county of ———, State (or Territory) of ———, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon,

Nevada, and in Washington Territory," for the purchase of the ———, of section —— township ——, of range ——, in the district of lands subject to sale at ———, do solemnly ——— that I am a native (or naturalized) citizen (or have declared my intention to become a citizen*) of the United States, of the age of ———, and by occupation ———; that I have personally examined said land, and from my personal knowledge state that said land is unfit for cultivation, and valuable chiefly for its ———; that it is uninhabited; that it contains no mining or other improvements ——— nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself, and that my post-office adress is † ———.

——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ———, ———. ———, ———,), and that I verily believe him to be the person he represents himself to be; and that this affidavit was subscribed and sworn to before me this —— day of — ——, 18—.

——— ———,
Register (or Receiver).

NOTE.—Every person swearing falsely to the foregoing affidavit is guilty of perjury, and will be punished as provided by law for such offense. In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land or of any right, title, or claim thereto, are absolutely null and void as against the United States.

[4-371.]

(The testimony of two witnesses, in this form, taken separately, required in each case.)

TESTIMONY OF WITNESS UNDER ACT OF JUNE 3, 1878.

——— ———, being called as a witness in support of the application of ——— ——— to purchase the ——— of section ——, township —— of range ——, testifies as follows:

Question 1. What is your post-office address, and where do you reside?—Answer. ———.

Question 2. What is your occupation?—Answer. ———.

Question 3. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?—Answer. ———.

Question 4. When and in what manner was such inspection made?—Answer. ———.

Question 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?—Answer. ———.

Question 6. Is it fit for cultivation?—Answer. ———.

Question 7. What causes render it unfit for cultivation?—Answer. ———.

Question 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.—Answer. ———.

Question 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?—Answer. ———.

Question 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?—Answer. ———.

Question 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?—Answer. ———.

* In case the party has been naturalized or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

† If the residence is in a city, the street and number must be given.

Question 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?—Answer. ———.

——— ———.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to ——— before ——— signed ——— name thereto, and that the same was subscribed and sworn to before me this ——day of ———, 188-.

——— ———,
——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[4-274.]

(This affidavit can be made only upon applicant's personal knowledge, and from his own personal examination of the land, and must be subscribed and sworn to before the register and receiver of the land district in which the land is situated, or before the judge or clerk of a court of record of the county in which the lands are situated.)

Desert-land act of March 3, 1877.

DECLARATION OF APPLICANT.

No. ——.]

UNITED STATES LAND OFFICE, ———
———, 18—,

I, ————————, of (town or city) ——— County of———, and State (or Territory) of———, being duly sworn, on oath depose and declare: That I am a native born (or naturalized) citizen (or have declared my intention to become a citizen) of the United States, of the age of ——— years, and a resident of ———, and by occupation a ———; that my post-office address is ———; that I intend to reclaim a tract of desert land not exceeding one section, or 640 acres, by conducting water upon the same within three years from date of entry, under the provisions of the act of Congress approved March 3, 1887, entitled "An act to provide for the sale of desert lands in certain States and Territories." The land which I intend to reclaim is desert land and is situated in ——— county, in the ——— land district, and is described as follows, to-wit: The ——— of section No. ——, Township No. ——, Range No. ——, containing ——— acres. I further depose and declare that I have made no other declaration for desert lands nor any other entry under the provisions of said act; that I am not the assignee of any desert land claim; that I have made an actual personal examination of each and every legal subdivision of the land above described; that said land borders on (state what stream or body of water and describe the same) and that there is through or upon said land (name and describe all water courses, springs, or other bodies of water) ——— that said land is not naturally irrigated or watered, nor overflowed at any season of the year by the foregoing or any natural stream, spring, or other body of water; that I expect to obtain my water supply to irrigate said land from ———, that the character of the soil is ———, that said land will not, without artificial irrigation, produce an agricultural crop of any kind in amount reasonably remunerative, and that it will not, when unfed by grazing animals, produce native grasses sufficient in quantity to make an ordinary crop of hay in usual seasons; that there are no trees growing on said land, but that the same is

devoid of timber; said land does not contain moisture sufficient to produce a natural growth of trees; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land can not be successfully cultivated without being reclaimed by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well known, patent, and notorious, that the same will not, in its natural condition, produce any crop; that no portion of said land has ever been reclaimed by conducting water thereon, and that there are no lands in the vicinity of this tract that are occupied by settlers and cultivated without artificial irrigation. *And I further declare.* That there is not, to my knowledge, within the limits of said land any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that my declaration therefore is not made for the purpose of fraudulently obtaining title to mineral land, timber land, or agricultural land, but for the purpose of faithfully reclaiming the land above described by conducting water thereon within three years from date of entry.

My post-office address is ———.

———— ————.

LAND OFFICE AT ————
————, 18—.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, on this —— day of ———, 18—.

———— ————,
————— ————.

NOTES.

1. If residence is in a city, street and number must be given.
2. In case the party has been naturalized, or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.
3. When the entry is made on unsurveyed land a correct diagram of the lands applied for must be furnished.
4. Any person swearing falsely to the foregoing affidavit or to any of the statements therein, is guilty of *perjury*, and will be punished as provided by law for that offense.
5. The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testify falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[4–074.]

Desert land act of March 3, 1877.

AFFIDAVIT OF WITNESS.

No. ——.] LAND OFFICE AT ——,
——, 18—.

I, —— ——, of (town or city) ——, county of ——, and State (or Territory) of ——, being duly sworn, declare upon oath: That I am a resident of ——, of the age of ——, and by occupation a ——; that my post-office address is ——; that I am well acquainted with the character of each and every legal subdivision of the following-described land embraced in the declaration of —— ——, viz: the —— of Section No. ——, Township No. ——, Range No. ——, containing —— acres; that I became acquainted with said land by a personal examination of each and every legal subdivision thereof; that I have been acquainted with it for —— years last past; that I have frequently passed over it; that my knowledge of said land is such as to enable me to testify understandingly concerning it; that the same is desert land within the meaning of the second section of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories;" that said land borders on (state what stream or body of water, and describe the same), and that there is through or upon said land (name and describe all watercourses, springs, or other bodies of water); that said land is not naturally irrigated or watered, nor overflowed at any season of the year by the foregoing or any natural stream, spring, or other body of water; that water to irrigate said land can be obtained from ——, a distance of —— from said land; that the character of the soil is ——; that it produces a natural growth of ——; that said land will not, without artificial irrigation, produce an agricultural crop of any kind in amount reasonably remunerative, and that it will not, when unfed by grazing animals, produce native grasses sufficient in quantity to make an ordinary crop of hay in usual seasons; that there are no trees growing on said land, but that the same is devoid of timber; said land does not contain moisture sufficient to produce a natural growth of trees; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land can not be successfully cultivated without being reclaimed by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well known, patent, and notorious, that the same will not, in its natural condition, produce any crop; that no portion of said land has ever been reclaimed by conducting water thereon, and that there are no lands in the vicinity of this tract that are or have been cultivated without artificial irrigation. *And I further declare* that there is not, to my knowledge, within the limits of said land any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; and that said land is essentially non-mineral land. *And I further declare* that I make this affidavit at the request of —— ——, and that I am not interested in anyway or manner, directly or indirectly, present or prospective, in the application or declaration in support of which this affidavit is made, nor in the land itself, nor in any title thereto which may be acquired by said applicant or any other person.

—— ——.

LAND OFFICE AT ——,
——, 18—.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by —— ——), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ——, on this —— day of ——, 18—.

—— ——, *Register.*
—— ——, *Receiver.*

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it

is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX—CRIMES—CHAP. 4.

SEC. 5394. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

6—392 (12300—5 M)

[4-199.]

DESERT LANDS.—ACT OF MARCH 3, 1877.

No. ——.] UNITED STATES LAND OFFICE, ———.
———, 18—.

It is hereby certified that under the provisions of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," ——— ———, of ———, has this day filed in this office his declaration of intention to reclaim the following-described tract of land, viz: ——— that he has filed evidence to show that the said tract of land is desert land as defined in the second section of said act, and that he has paid to the receiver the sum of ——— dollars, being at the rate of ——— cents per acre for the land above described.

——— ———, *Register.*
——— ———, *Receiver.*

$——.

Within three years from the date of this certificate final proof and payment are, by law, required to be made.

Notice of intention to make such proof must be filed by the claimant with the register and published in a newspaper designated by him for a period of thirty days or in six consecutive issues of said paper, which notice must also contain the names of the witnesses by whom the necessary facts will be established.

Desert-land entries are not assignable, and any assignment or conveyance of the same is void.

[4-143.]

DESERT LAND ACT OF MARCH 3, 1877.

Receiver's final receipt, No. ——.] [Declaration, No. ——.

LAND OFFICE AT ———,
———, 188—.

Received from ——— ———, of ——— County, State or Territory of ———, the sum of ——— dollars and —— cents, being final payment of one dollar per acre for the ———, containing ——— acres, at one dollar and twenty-five cents per acre, the sum of twenty-five cents per acre having been heretofore paid, as per original receipt No. ——.

——— ———, *Receiver.*

$——.

[4-200.]

DESERT LAND ACT OF MARCH 3, 1877.

Register's final certificate, No. ——.] [Declaration, No. ——.

LAND OFFICE AT ———,
———, 18—.

It is hereby certified that, in pursuance of the act of Congress, approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," ——— ———, of ——— County, State, or Territory of ———, has purchased of the register of this office, and made payment in full for the land described as follows, to wit: ——— containing ——— acres, at the rate of one dollar and twenty-five cents per acre, amounting to ——— dollars:

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the tract of land above described.

——— ———, *Register.*

[NOTE.—See original declaration and receipt, No. ——.]

[4-372.]

FINAL PROOF UNDER THE DESERT-LAND ACT OF MARCH 3, 1877.

DEPOSITION OF APPLICANT.

1. Q. State your name, age, occupation, residence, and post-office address.—A. ———.

2. Q. Are you a citizen of the United States, or, if not, have you declared your intention to become such?—A. ———.

3. Q. Give the number and date of the desert-land entry heretofore made by you, and describe the land embraced therein.—A. ———

4. Q. State its situation, the character of the soil, its proximity to water, and what natural streams or bodies of water are upon, or pass through, or adjoin it.—A. ———.

5. Q. Do you own and control or have you a clear right to the use of water sufficient to irrigate the whole of the land and for keeping the same permanently irrigated?—A. ———.

6. Q. State the source and volume of the water-supply, how acquired by you, and how maintained.—A. ———.

7. Q. State from personal knowledge whether such water has been conducted during any one season upon all the land embraced in your entry, and if the same has been irrigated and reclaimed from its desert condition to such an extent that it will now produce an agricultural crop.—A. ———.

8. Q. State also the number, dimensions, and carrying capacity of the main ditch or ditches, and also of all the ditches on each legal subdivision of the land which are used in irrigating the same.—A. ———.

9. Q. State whether you have seen water distributed through and by means of said ditches over all the land in each legal subdivision of your entry with a view to the proper reclamation thereof; and if so, state the dates when each distribution was made, and the quantity of water per acre used, and the time occupied in making the same, in each and every year.—A. ———.

10. Q. If there are any high points or uneven surfaces which are practically not susceptible of irrigation, state definitely the nature, situation, extent, and area of the same.—A. ———.

11. Q. Has an agricultural crop of any kind been raised on the land as the result of such irrigation? If so, state the kind of crop and the quantity per acre, and describe the portion of the entry on which the same was raised.—A. ———.

12. Q. If any lands adjacent to or in the vicinity of the land embraced in this entry are settled upon or occupied, and crops of any kind are or have been raised thereon without artificial irrigation, describe the same and state year or years of cultivation, the kind of crop, and quantity raised per acre.—A. ———.

13. Q. Has any coal or other minerals been discovered on said land, or is any coal or mineral known to be contained therein?—A. ———.

14. Q. Are there any indications of coal, salines, or minerals of any kind on this land? If so, describe what they are.—A. ———.

15. Q. Have you the sole and entire interest in said entry, and in the tract covered thereby, and in the right to the water sufficient to continuously irrigate the same?—A. ———.

16. Q. Has any other person, individual, company, or corporation, any interest whatever in said entry, tract, or water appropriation? If so, give the name, residence, and occupation of each such person, the name, business, and locality of any such corporation or company, and the nature, amount, and extent of such interest.—A. ———.

17. Q. Have you made any other desert-land entry, or have you become the assignee of any other such entry, or have you any interest, direct or indirect, in any other entry under the desert-land act?—A. ———.

——— ———.

LAND OFFICE AT ———,
———, 188-.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, on this —— day of ———, 18—.

——— ———, *Register.*
——— ———, *Receiver.*

NOTE.—1 A correct diagram, showing the location of all ditches and improvements, must be furnished by claimant.

2. The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX—CRIMES—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[4-373.]

[The depositions of two witnesses, in this form, taken separately, required in each case.]

FINAL PROOF UNDER THE DESERT-LAND ACT OF MARCH 3, 1877.

DEPOSITION OF WITNESS.

1. Question. State your name, age, residence, occupation, and post-office address.—Answer. ———.

2. Q. Are you acquainted with ——— ———, who made desert-land entry No. —— on the —— day of ———, A. D. 18—, upon the ———, and how long have you known him?—A. ———.

3. Q. Have you personal knowledge of this land? State its situation, the character of the soil, its proximity to water, and what natural streams or bodies of water are upon, pass through, or adjoin it.—A. ———.

4. Q. Does the entryman own and control or have a clear right to water sufficient to properly and permanently irrigate all the land embraced in this entry?—A. ———.

5. Q. State the source and volume of the water supply, how acquired, and how maintained.—A. ———.

6. Q. Has water been conducted upon the land embraced in said entry so as to irrigate and reclaim the same from its former condition to such extent that it will produce an agricultural crop? If so, give the number, dimensions, and capacity of the main ditch or ditches, and also of all the ditches on each legal subdivision of the land which are used in irrigating the same.—A. ———

7. Q. Have you seen water distributed through and by means of said ditches over all the land in each legal subdivision of said entry? State the dates when such distribution took place, the duration thereof, and the quantity of water per acre used.—A. ———.

8. Q. If there are any high points or uneven surfaces which are practically not susceptible of irrigation, state definitely the nature, situation, and area thereof.—A. ———.

9. Q. Has an agricultural crop of any kind been raised on the land as the result of such irrigation? If so, state the year when raised, the kind of crop, the quantity per acre, and the portion of the entry on which the same was raised.—A. ———.

10. Q. If any lands adjacent to or in the vicinity of the land embraced in this entry are settled upon or occupied and crops of any kind raised thereon without artificial irrigation, describe the same, and state year or years of cultivation, kind of crop, and quantity raised per acre.—A. ———.

11. Q. Has any coal or other minerals been discovered on said land, or is any coal or mineral known to be contained therein? Are there any indications of coal, salines, or minerals of any kind on this land? If so, describe what they are.—A. ———.

12. Q. Have you any interest, direct or indirect, in this entry or the land covered thereby, or in the water supply used in its irrigation?—A. ———.

(Signature) ——— ———.

LAND OFFICE AT ———,
———, 188–.

I hereby certify that the above affidavit was taken and subscribed before me this day, and that the same was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that the land described is properly subject to entry under the desert-land act.

——— ———,
Register.
——— ———,
Receiver.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he wil testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or cer tificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See § 1750.)

[4–062.]

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The non-mineral affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

UNITED STATES LAND-OFFICE, ———,
———, 18–.

——— ———, being duly sworn according to law, deposes and says that he is the identical ——— ——— who is an applicant for Government title to the ———; that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to

his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is ———.

——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, within the ——— land district, on this —— day of ———, 18—.

———— ————,
———— ————.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See § 1750.)

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